

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.26050 of 2015

Date: 18-08-2015

Between:

M. Ramamohan

.... Petitioner

AND

The State of Andhra Pradesh, represented by its
Principal Secretary, Panchayat Raj Department,
Hyderabad and 2 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.26050 of 2015

ORDER:

This writ petition is filed for a mandamus declaring the proceedings vide Rc.No.373/2015/B, dated 07-08-2015 issued by the 3rd respondent in seizing the petitioner's bore well situated in Survey No.245, Mushturu village, Battalapalli Mandal, Ananthapur District, without conducting any enquiry and without affording any opportunity to prove that the said Survey No.245, Mushturu village is not Government land as illegal and arbitrary and for a consequential direction to set aside the same.

2. The case of the petitioner is that he is resident of Sanjeevapuram village, Battalapalli Mandal, Ananthapur District and the property was partitioned among the brothers in the year 2012 out of which the properties in Survey No.245 to an extent of Ac.0.17 cents, Survey No.216-1A to an extent of Ac.1.67 cents, Survey No.177-4 to an extent of Ac.2.17 cents and Survey

No.177-3B to an extent of Ac.0.67 cents fell to the share of the petitioner and since the properties are ancestral properties, the 3rd respondent issued Form-1B while making entries into revenue records. There is an existing bore well for the past 20 years and the petitioner is using the said bore well in Survey No.245 which was being used by their ancestors. When one M. Venkatappa was trying to dig a bore well in contrary to A.P. Water, Land and Trees Act, 2002 (WALTA Act) adjacent to land in Survey No.239-8 of the petitioner, he made a representation on 13-07-2015 to the 3rd respondent requesting to restrain such person from digging a bore well, but the 3rd respondent, without initiating any enquiry, is trying to seize the bore well of the petitioner since the existing bore well in Survey No.245, Mushturu village belongs to Government land. The Mandal Revenue Inspector called the petitioner to the office and communicated show cause notice in Rc.No.B/373/2015, dated 31-07-2015 directing to submit his explanation within three days. The 3rd respondent, taking advantage of the representation submitted by the petitioner and other villagers as if the petitioner submitted his explanation against the show cause notice dated 31-07-2015, issued the impugned proceedings in Rc.No.373/2015/B, dated 07-08-2015 directing seizure of the bore well under Section 25 of the A.P. Water, Land and Trees Act, 2002 (WALTA Act) from the property in question. Challenging the said proceedings, the present writ petition is filed.

3. Heard Sri N. Aswartha Narayana, learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue.

4. Learned counsel for the petitioner submits that the so-called notice dated 31-07-2015, which is referred in the impugned

proceedings dated 07-08-2015, is served on the petitioner on 05-08-2015 and even before submission of explanation by the petitioner to the said notice, the impugned proceedings dated 07-08-2015 are passed and the bore well was seized on 09-08-2015, which are in violation of principles of natural justice and without conducting any enquiry and hence, the same is struck down.

5. On the other hand, learned Assistant Government Pleader for Revenue submitted written instructions wherein it is stated that the villagers of Sanjeevapuram submitted a representation stating that the writ petitioner has drilled bore well in Survey No.245 Mustoor village, which is Government land, without permission from the authorities and they are facing drinking water problem in the village and requested to seized the unauthorized bore well and that the Mandal Revenue Inspector-I, Bathalapalli got enquired into the matter and reported that the land in which the petitioner drilled the bore well in Survey No.245 belongs to Government and the act of such digging was without obtaining prior permission from the authorities and violated the conditions of A.P. WALTA Act. It is further stated that except the explanation dated 05-08-2015 no other documents has been submitted by the petitioner regarding drilling of bore well in S.No.245 of Mustoor village of Bathulapalli Mandal even though he served with a notice dated 31-07-2015. It is further stated that the land admeasuring Ac.1.91 cents in Survey No.245 was classified as Government land and that the explanation submitted by the petitioner has been examined and found not satisfactory.

6. Having regard to the facts and circumstances of the case and in view of the fact that the show cause notice dated 31-07-2015 was served on the petitioner on 05-08-2015 without affording any reasonable opportunity of hearing to the petitioner and without

conducting any enquiry, ends of justice would be met if the impugned proceedings dated 07-08-2015 is set aside on the sole ground of violation of principles of natural justice.

8. Therefore, the proceedings in Rc.No.373/2015/B, dated 07-08-2015 passed by the Tahsildar (FAC), Bathalapalli are set aside. However, the petitioner shall submit his explanation to the show cause notice dated 31-07-2015 within a period of two (2) weeks from today and on such submission, the competent authority shall consider the same and pass appropriate orders in accordance with law, after affording a reasonable opportunity of hearing to the petitioner as well as the complainants/ villagers and take action accordingly. It is made clear that if the petitioner fails to submit his explanation as ordered, the respondent authorities can take appropriate action in accordance with law. The writ petition is allowed at the stage of admission to the extent indicated above. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

Date: 18-08-2015

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