

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 10234 of 2012

ORDER:

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Heard learned counsel for the petitioner and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent Nos.1 to 4 in not initiating any action against respondent Nos.5 and 6 pursuant to the representation dated 13.02.2012 submitted by the petitioner, as illegal, arbitrary and violative of principles of natural justice; and consequently direct respondent Nos.1 to 4 to take necessary action against respondent Nos.5 and 6 from extracting water from the tank situated in the middle of Thurupunaidupalem Village, Tangutur Mandal, Prakasham District.

The averments in the affidavit filed in support of the writ petition would show that there was a water tank existing in Sy.No.7 of Thurupunaidupalem Village and all the villagers were mainly depending on the tank for drinking water. The water from the said well was also used for the purpose of feeding the animals. While things stood thus, respondent Nos.5 and 6 without obtaining any permission from respondent Nos.1 to 4, dug a well on the western bund of the said tank, fixed four electric motors and started pumping water from the said tank for their personal use. It is stated that on 13.02.2012, the petitioner brought it to the notice of respondent No.1 and sought immediate action but till date no action is initiated by respondent No.1 to 4. Hence the writ petition.

A counter came to be filed by respondent Nos.1 to 3 denying the averments made in the affidavit filed in support of the writ petition. It is stated that pursuant to the representation made, an enquiry was done in the village wherein it was found that the water in the said tank is not being used for drinking purpose and the said water is not even used for cattle. It has been found that the said water was used for house construction purpose and respondent Nos.5 and 6 were found using the said water for construction of a house. The Tahsildar enquired about 60 villagers, who stated that the tank is not being used by villagers and also for cattle since last 20 years and the villagers are using the water for house construction purpose. It is stated that the villagers are taking water for drinking purpose from a plant established adjacent to NH5 road.

No reply came to be filed disputing the averments in the counter.

From a reading of the counter, it is clear that the said tank is not being used for any drinking purpose. The allegation of water from tank being used for drinking purpose is found to be incorrect. Counter which has been filed would disclose that well is under the supervision and control of Gram Panchayat. Having regard to the circumstances stated above, I see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

04.09.2015
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