

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.23399 OF 2015

DATED:02-12-2015

Between:

Yamarthi Masthan Rao
and others ... Petitioners

And

State of Andhra Pradesh
Rep. by its Principal Secretary
Panchayat Raj & Rural Development Dept.,
Secretariat Buildings,
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONERS: Mr. Penumaka Venkata Rao

COUNSEL FOR RESPONDENT NOs.1 and 3: A.G.P. for Panchayat
Raj (AP)

COUNSEL FOR RESPONDENT NO.4 : Mr. Ravi Cheemalapati

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside the notice in R.C. No.12/2015/EO (PR & RD), dt.25.07.2015, of respondent No.4, whereby he has called upon petitioner No.1 to remove the pipeline laid by him underneath the road leading from Pedda Cheruvu to R&B Road (upto Goddess Temple).

It is the pleaded case of the petitioners that in order to irrigate their agricultural lands they have laid a pipeline about 3 feet below the surface level of the existing road, which is laid for access to the agricultural lands, and that upon realizing that permission of respondent No.4 is necessary, a representation was made by petitioner No.1 on 20.07.2015 to permit him to continue the pipeline while undertaking that in the event any damage is caused to the existing road on account of laying of the pipeline underneath it, he will pay compensation for such losses. The grievance of the petitioners is that without considering the said representation, the impugned notice has been issued.

Though petitioner No.1 has specifically referred to representation dt.20.07.2015 in his affidavit, respondent No.4 has not adverted to the same in the counter affidavit. In my opinion, when the request for permission to continue the pipeline is pending before respondent No.4, he was not justified in issuing the impugned notice.

At the hearing, Mr. Penumaka Venkata Rao, learned counsel for the petitioners, submitted that in spite of an order dt.29.07.2015 of this Court directing both parties to maintain *status quo*, respondent No.4 has got the pipeline cut. Learned Standing Counsel for the Panchayat Raj Institutions (AP) appearing for respondent No.4 submitted that the said respondent was not aware of the order of the *status quo* passed

by this Court on 29.07.2015.

From these averments of the learned counsel for the parties, it is evident that as on today the petitioners are not being allowed to draw water from the pipeline laid by petitioner No.1 as the same was cut. As respondent No.4 has issued the impugned notice without taking a decision on the representation of petitioner No.1, the writ petition is disposed of with a direction to the former to consider the request of latter for permitting the petitioners to use the pipeline underneath the existing road, take a decision and communicate the same to petitioner No.1 within two weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.30324 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

02-12-2015

bnr