

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD**  
**FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH**

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**WRIT PETITION No.32573 of 2015**

**BETWEEN**

Chandrakanta and another.

**... PETITIONERS**

**AND**

The State of Telangana, Rep. by its Principal Secretary (Revenue), Secretariat, Hyderabad and others.

**...RESPONDENTS**

DATE OF JUDGMENT PRONOUNCED: 08.10.2015

**THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR**

1. Whether Reporters of Local newspapers may be No allowed to see the Judgments?
2. Whether the copies of judgment may be marked No to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to see the No fair copy of the Judgment?

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**ORDER:**

Heard learned counsel for the petitioners and learned Government Pleader.

2. The grievance of the petitioners is that the bore-well existing in their house bearing No.21-2-135, Gulzarhouse, Hyderabad is straightaway seized by the second respondent without any notice and contrary to the provisions of the A.P. Water, Land and Trees Act, 2002 (for short 'the Act') and consequently, seeks restoration of the bore-well.

3. Learned Government Pleader (Revenue) has received instructions that one Smt. Sharada Bai W/o. Om Prakash Gupta issued a legal notice under Section 80 CPC through their counsel on 12.04.2010 and the executive staff of the second respondent got an enquiry conducted and confirmed existence of bore-well within the house of the petitioners. At that stage, the complainant is stated to have filed WP.No.15863 of 2010 to direct respondents 1 and 2 to take action. The said writ petition is stated to be pending. While so, the second respondent issued orders in Memo No.B/163/2010 dated 18.05.2010 and 23.09.2015 to the executive staff to close the bore-well in the premises of the petitioners and accordingly, the bore-well is stated to be seized.

4. It is evident from the instructions that no procedure under Section 15 of the Act is followed by the second respondent and even in case of complaint by anybody, the

Tahsildar has to follow the provisions of Section 15 of the Act and conduct appropriate enquiry after notice and then take appropriate action. Without following the said procedure, the seizure of bore-well appears to have been effected merely by an *ex parte* order, which is clearly unsustainable. In view of that, the action of the second respondent in seizing the bore-well of the petitioners has to be held contrary to Section 15 of the Act and hence, set aside. Ultimately, the bore-well of the petitioners shall be restored by the second respondent forthwith. This will, however, not preclude the second respondent from conducting appropriate enquiry under Section 15 of the Act, if he so desires, by following due procedure in law.

The writ petition is allowed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

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VILAS V. AFZULPURKAR, J

October 8, 2015

Note: Furnish C.C. by 09.10.2015

(B/o) DSK