

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

**WRIT PETITION No.24627 of 2011
&
CONTEMPT CASE No.1028 of 2016**

COMMON ORDER:

-

Questioning proceedings No.152/2011 (B) dt. 20.08.2011 of the 2nd respondent, W.P.No.24627 of 2011 is filed.

2. Since the sole writ petitioner died during pendency of the writ petition, her legal representative, who is stated to be her grand son, was brought on record as 2nd petitioner vide order dt. 15.02.2016 in WPMP.No.48237 of 2014.

3. 1st petitioner was granted permission to cultivate Government land to an extent of Ac.1.50 cents out of Ac.6.31 cents in Sy.No.121/2C of Palavai Village for one year from 14.07.1998 to 30.06.1999 as per proceedings of M.R.O., Kalyandurg, in Reference T.F.Dis.No.3/1408 dt. 14.07.1998. She continued to be in possession of subject land subsequent thereto also. She drilled a bore-well in the said property on 14.08.1999 after seeking permission from the competent authority and then obtained electricity

service connection for operating the said bore-well.

4. The 4th respondent, who is neighbour of the petitioners, complained to the 2nd respondent and, on the complaint of the 4th respondent, the 2nd respondent straightaway seized the bore-well of the petitioners vide proceedings dt. 20.07.2010, without issuing any notice to them.

5. The 1st petitioner then questioned the same before this Court in W.P.No.19237 of 2010.

6. On 10.08.2010, this Court allowed the said writ petition on the ground that the seizure of the petitioner's bore-well was without issuing any notice and without giving any opportunity to the petitioner. It quashed the proceedings dt. 20.07.2010 issued by the 2nd respondent seizing the bore-well of the petitioner and a direction was given to respondents 1 to 3 to allow the petitioner to operate the said bore-well. This Court observed that if any representation is filed by the 4th respondent complaining violation of the provisions of the A.P. Water, Land and Trees Act, 2002, then the respondents are not precluded from taking steps in accordance with the provisions of the said Act and the Rules made thereunder.

7. It is contended that the 1st petitioner had also filed O.S.No.83 of 2010 before the Junior Civil Judge, Kalyandurg, for declaration of her right and title over the plaint schedule property and also sought a permanent injunction restraining the 4th respondent, and an interim injunction was granted in her favour in I.A.No.350 of 2010 in O.S.No.83 of 2010 against the respondents.

8. After the disposal of W.P.No.19237 of 2010 on 10.08.2010, the 4th respondent again made a representation on 04.09.2010 to the 2nd respondent complaining that the 1st petitioner had dug bore-well within prohibited distance from his bore-well. He then filed W.P.No.27439 of 2010 before this Court complaining that no action was taken on his representation dt. 04.09.2010 by the 2nd respondent. The 1st petitioner herein was also impleaded as the 2nd respondent in the said writ petition.

9. On 03.03.2011, W.P.No.27439 of 2010 was disposed of with a direction to the 1st respondent therein to consider and dispose of the representation dt. 04.09.2010 of the 4th respondent herein, after hearing both sides and taking documentary evidence with regard

to date of digging of bore-wells, within a period of one month from the date of receipt of a copy of the order. It was further observed that the 2nd respondent herein should also issue a notice to the 1st petitioner herein to put-forth her case.

10. Thereafter the 1st petitioner produced the documents in her possession before 2nd respondent on 02.07.2011 contending that she had drilled her bore-well in 1989 and at that time, there was no bore-well near her bore-well and that the allegations made by 4th respondent are false.

11. On 20.08.2011, by a panchanama, again the 2nd respondent seized the bore- well of the petitioners.

12. Challenging the same, W.P.No.24627 of 2011 is filed alleging that while seizing the bore-well of the petitioners on 20.08.2011, the 2nd respondent had disobeyed the order dt. 10.08.2010 passed by this Court in W.P.No.19237 of 2010 and seized the bore-well.

13. Notice in this writ petition was ordered to the 4th respondent, but the same has been returned with an endorsement "refused".

14. In the counter affidavit filed by 2nd respondent, it is stated that after W.P.No.27439 of 2010 was disposed of, notices were issued to the 1st petitioner and the 4th respondent on 25.06.2011; that both attended before the 2nd respondent and gave their written statements and thereafter the M.R.I-1, Kalyandurg conducted panchanama on 20.08.2011 and seized the bore-well for violation of conditions of the A.P. Water, Land and Trees Act, 2002._

15. Nowhere in the counter affidavit, it is stated that a reasoned order had been passed by the 2nd respondent after hearing both the petitioners and the 4th respondent, and after considering the documents produced by both of them. Since there is a clear violation of the order dt.10.08.2010 in W.P.No.19237 of 2010 as well as order dt.03.03.2011 in W.P.No.27439 of 2010 by the 2nd respondent, and since the 2nd respondent has not passed any reasoned order and straightaway directed seizure of the petitioners' bore-well, the Writ Petition is allowed and seizure of the petitioners' bore-well on 20.08.2011 by the 2nd respondent through the 3rd respondent is quashed. Respondent No.1 shall pay costs of Rs.20,000/- (Rupees Twenty Thousand) to the 2nd petitioner for violating two

final orders passed by this Court in W.P.No.19237 of 2010 dt.10.08.2010 and in W.P.No.27439 of 2010 dt.03.03.2011, within a period of four weeks from the date of receipt of a copy of this order.

16. The contempt proceedings in C.C.No.1028 of 2016 were initiated since it was noticed by this Court that the seizure of petitioners' bore-well by the 2nd respondent was in willful disobedience of the order dt. 10.08.2010 in W.P.No.19237 of 2010.

17. In the affidavit filed by 1st respondent in the contempt case, it is stated that an order was passed on 18.08.2011 by the then Tahsildar of Kalyandurg, by name Sri S.Sivaji, and that he retired from service on 31.05.2013 on attaining the age of superannuation. It is further stated that the said individual is now residing at the following address:

“Sri S.Sivaji,
S/o. late Siddappa,
Door No.4-3-107, Bellary Road,
Ananthapuramu Town,
Ananthapuramu District.”

18. Since the Officer in question Sri S.Sivaji is no longer in employment of the State, the contempt case is not proceeded against him, but the costs of Rs.20,000/-

awarded to the writ petitioners in W.P.No.24627 of 2011 shall be recovered from the pension payable to the above individual.

19. The Contempt Case is accordingly closed. No order as to costs.

20. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

M.S.RAMACHANDRA RAO,J

08.07.2016

v v