

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos. 29898 and 39445 of 2016

COMMON ORDER:

1) Since both the writ petitions are inter-connected the following common order is passed.

2) W.P.No.29898 of 2016 came to be filed seeking issuance of writ of mandamus declaring the action of third respondent in seizing the bore well on 16.08.2016 situated in Sy.No.133/ 2C to an extent of Ac.4.50 cents at Marthadu Village, Garladinne Mandal, Ananthapur District, as illegal, arbitrary and violative of principles of natural justice; and consequently direct the third respondent to open and release the borewell.

3) W.P.No.39445 of 2016 came to be filed seeking issuance of writ of mandamus declaring the proceedings issued by the third respondent vide Rc.No.B/ 528/ 2016 dated 12.09.2016 thereby permitting the fourth respondent for operating the bore well dug in Survey No.133-2C of Marthadu (V), Garladinne Mandal, Anantapur District, as illegal, arbitrary and against the provisions of the Andhra Pradesh Water, Land and Trees act, 2002; and consequently set aside the said proceedings.

4) The facts in issue are as under:

5) The petitioner in W.P.No.29898 of 2016 had purchased land admeasuring Ac.4.50 cents in Sy.No.133/ 2C of Marthadu Village,

Garladinne Mandal, Ananthapur District in the year 2010. After purchasing the same, a borewell was dug by him and electricity connection was also obtained. After fitting a motor to the said bore well the fourth respondent, who is the second petitioner in W.P.No.39445 of 2016 closed the bore well by putting stones in the said bore well. Immediately, the petitioner lodged a report with Station House Officer, Garladinne and a crime came to be registered under Sections 447, 427 and 506 read with 34 IPC. Under the influence of the fourth respondent, the third respondent straight away seized the bore well without issuing any notice. Challenging the same, he filed W.P.No.29898 of 2016. By an order dated 06.09.2016, this Court directed the third respondent to open and release the bore well. Subsequently, the third respondent issued proceedings dated 12.09.2016 permitting the petitioner in W.P.No.29898 of 2016 to operate the well in Sy.No.133-2C of Marthadu Village, until further orders. Challenging the said proceedings, W.P.No.39445 of 2016 came to be filed.

6) The Tahsildar, Garladinne Mandal, filed counter in W.P.No.29898 of 2016 stating that in view of the report of Gandhaveeti Bhagyamma (respondent No.4) wherein the petitioner was said to have dug a bore well nearer to her bore well without obtaining any permission from the competent authority, the Mandal Revenue Inspector-I, Garladinne enquired into the matter and submitted his report stating that the petitioner in W.P.No.29898 of 2016 laid a new bore well in

Sy.No.133-2C of Marthadu Village nearer to the existing bore well in Sy.No.150 of the fourth respondent. Basing on the said report, a notice was issued to the petitioner on 20.08.2016 to show cause as to why action should not be taken against him for digging of new bore well without permission from the competent authority. After perusing the enquiry report and field inspection, the third respondent seized the said bore well. Aggrieved by the same, the petitioner filed the writ petition and obtained interim order. Revised orders came to be passed permitting the petitioner to operate the bore well until further orders.

7) A perusal of the material on record would show that a bore well was dug by the petitioner in W.P.No.29898 of 2016 without obtaining any permission. Basing on the complaint made by the second petitioner in W.P.No.39445 of 2016, the said bore well was seized on 16.08.2016. As per the orders of this Court in W.P.M.P.No.37001 of 2016 in W.P.No.29898 of 2016, the said bore well was re-opened and the petitioner in W.P.No.29898 of 2016 was permitted to operate the bore well. Aggrieved by the same W.P.No.39445 of 2016 came to be filed.

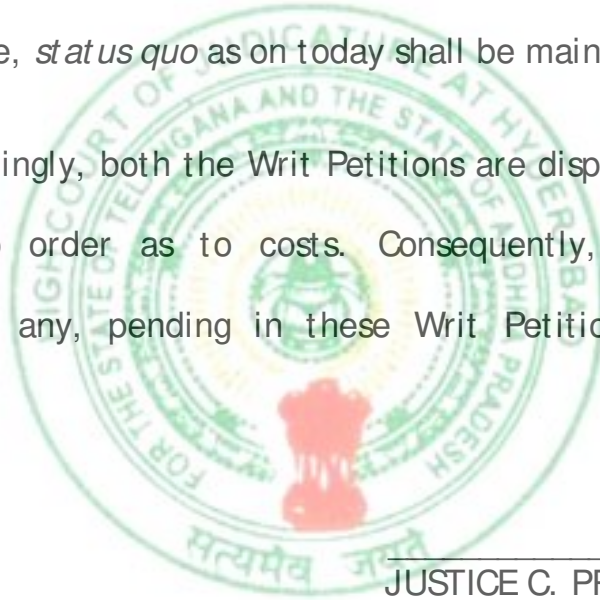
8) Learned counsel for the petitioner in W.P.No.29898 of 2016 submits that no notice was given to the petitioner while seizing the bore well as such this Court granted interim order directing the respondent-authorities to open the bore well.

9) Learned counsel for the petitioner in W.P.No.39445 of 2016 submits that the petitioner got issued a legal notice to the

respondent-authorities seeking seizure of the borewell under the provisions of the Act but no action was taken and seeks a direction to the respondent-authorities to take appropriate action in accordance with law.

10) Having regard to the fact that the legal notice issued for seizing the borewell is still pending, the respondent-authorities are directed to pass orders on the legal notice, in accordance with law, within a period of four (04) weeks from today, after giving opportunity of hearing to petitioners in both the writ petitions. Till such time, *status quo* as on today shall be maintained.

11) Accordingly, both the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.



JUSTICE C. PRAVEEN KUMAR

28.11.2016
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