

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.19294 OF 2010

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

The relief sought for in this Writ Petition is to declare the action of the respondents, in digging the petitioners' land for the purpose of excavation of soil for laying a bund across the land of the petitioners in Sy. No.308 and its Sub-Divisions admeasuring a total extent of Ac.13.20 gts situated at Mamnoor village, Hanamkonda Mandal, Warangal District, without initiating proceedings under the Land Acquisition Act and without paying compensation, as illegal and arbitrary. By the interim order in WPMP No.24432 of 2010 dated 06.08.2010, the respondents were directed not to lay a bund across the subject land without following due process of law.

In the counter-affidavit, filed by the Executive Engineer, Irrigation, it is stated that the respondents do not propose to lay any bund over the subject land, nor have they undertaken the exercise of filling up the breaches to the existing kunta situated in Sy. No.308; the allegations in the writ affidavit are made only to mislead this Court, and to wrongfully gain by preventing the authorities from restoring the tank which is an existing and functioning irrigation source; the petitioners had illegally breached the tank in order to grab Shikam lands for their real estate business; there was no proposal to form a new tank as alleged by the petitioners; and the petitioners had illegally sold these shikam lands to real estate brokers who, in collusion with the petitioners, had deliberately caused breaches, preventing the kunta from functioning, so that they could develop the land for real estate purposes.

No reply affidavit is filed to the counter-affidavit.

It does appear, from the counter-affidavit, that the petitioners have encroached upon tank bed land, and this Writ Petition has been filed only to prevent the subject tank from being put to use since laying of a bund would result in water being stored in the tank. As the respondents appear to have only taken steps to ensure that the subject tank was not encroached upon, their action in doing so cannot be faulted. The relief sought for in the Writ Petition cannot be granted as the subject land forms part of a tank, and it is always open to the respondents to create a bund thereupon to ensure storage of water in the subject tank.

The Writ Petition as filed is wholly misconceived and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 30.11.2017

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