

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.30119 of 2012

ORDER:

The petitioner prays for Mandamus declaring inaction of respondents in preventing flowing of sullage and drain water into petitioner's land in Sy.No.57 of Nandaram Village, Balanagar Mandal, Mahabubnagar District, from the adjacent water tank, as illegal, arbitrary and unconstitutional.

The 4th respondent filed counter affidavit and substantially admitted the allegation of petitioner on ownership of land in Sy.No.57 and explained the reasons why the water is flowing into petitioner's land and further states as follows on the steps taken by the 4th respondent.

“In reply to para No.6, this answering respondent do not aware of the representation dated 02/ 06/ 2012 to the 2nd respondent. A representation dated 31/ 08/ 2012 through his Advocate has been received by this answering Respondent stating that he sustained loss of Rs.10.00 lakhs because of inaction of the respondents in preventing drain and sewerage water from the tank into the fields of the petitioner in Sy.No.57 of Nandaram Village. This answering respondent made a requisition dated 10/ 09/ 2012 to the Assistant Engineer (Irrigation), MPDO and EO PR & RD requesting to restore the canal as per the village map to pass rain and drain water through. In pursuance of the above said representation, the 3rd respondent made a representation vide letter No.B2/ 204/ 2012 dated 03/ 11/ 2012 to the Executive Engineer (Irrigation) requesting to take necessary action to restore the canal as

per the village map. This answering Respondent after receiving the interim orders passed by this Hon'ble Court in WPMP No.38425 of 2012 in the above said Writ Petition and communicated to the same to the concerned higher authorities to take necessary action in turn the 2nd respondent issued a circulation copy to the 3rd respondent, Circulation dated 07/ 11/ 2012 and take necessary action in the matter and to comply report. Thereafter, the 3rd respondent sent a report vide letter No.B2/ 309/ 2012 dated 20/ 11/ 2012 stating that he personally visited the subject land in Sy.No.57 and above the said land, there is a canal is in existence from village cheruvu, which is below the village through which the rain and sullage water used to pass and the owners of the adjacent lands of the canal used to cultivate the crops by using the said water and the same is encroached by making hurdles to not to flow the water, the adjacent owners of the lands including the petitioner thereby the water is spreading to the adjacent lands and in this regard, a letter is also sent to the Assistant Engineer (Irrigation) to take necessary action. The subject matter of canal is vested with the Irrigation authorities. This answering respondent made requisitions to the higher authorities including the Irrigation authorities to restore the said canal as per village map. The said canal which was meant for flowing the rain water and was disturbed and damaged by making hurdles by the neighbouring land owners including the petitioner. As a matter of fact, the petitioner and other land owners used to raise the paddy crop in rain reason by using the said water and there is no damage of crop and land is caused as alleged by the petitioner. This answering respondent acted upon the representations made by the petitioner and made representations to the concerned authorities to take necessary steps to restore the said canal as per the village map and the same is pending."

From the above, it is clear that the 5th respondent is the authority, who is required to enquire into and remove all encroachments of channel, which is resulting in obstruction of free flow of water either from tank or drainage.

I am satisfied that the writ petition can be disposed of by this order.

(a) The petitioner is given liberty to represent to respondents 4 and 5 within four weeks from today by enclosing a copy of this order for removal of all encroachments of channel.

(b) The 4th respondent is directed to send a reminder to 5th respondent within two weeks thereafter.

(c) The 5th respondent is directed to identify the encroachments of channel in the presence of petitioner and 4th respondent and issue directions for removal of encroachments.

(d) Once the encroachments are identified, in the presence of parties, reasonable time of two weeks may be given to the encroachers to remove obstruction to free flow of water and in default thereof, the 4th respondent is permitted to remove encroachments.

(e) The said exercise shall be undertaken and completed within two months from the date of receipt of a representation from petitioner.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 03-02-2017
Prv

S. V. BHATT, J



