

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION NO.7876 OF 2017

ORDER:

1. The petitioners are the sons of one Yarappa. They state that their father purchased land of an extent of Ac.4.00 cents situated in Survey No.66/7 and 66/7 in the year 1996 and one bore well was existing at the time of purchase itself. The 4th respondent is having an extent of Ac.4.00 cents situated in Survey No.67/5. The father of the petitioners orally partitioned the property giving Ac.2.00 cents each to the petitioners. They wanted to clean the existing bore well and sought permission from the 4th respondent also. While so, the 3rd respondent issued a proceeding on 20.5.2016 asking the petitioners to produce evidence and documents regarding the bore well and also alleged that the bore well was dug during the mid night of 13.5.2016. Challenging the same, the petitioners filed Writ Petition No.1665 of 2016 and an order of status-quo was granted in the said Writ Petition. When the said Writ Petition was pending, the 3rd respondent passed an order on 25.5.2016 seizing the bore well. Challenging the same, the present Writ Petition was filed.

2. After filing the Writ Petition, an application was filed seeking amendment of the averments in the affidavit and the same was ordered. The amendment related to the challenge to order dated 6.3.2017 seizing the bore well once again.

3. Now a counter affidavit is filed by the 3rd respondent stating that the petitioners dug a new bore well in Survey Number 67/7 on 13.5.2016 and no bore well was existing prior to the said digging. The old bore well was existing in Survey No.67/6 and the new bore well belongs to the 2nd petitioner. In those circumstances, a notice was issued and the same was served on the petitioners on 21.5.2016. The Village Revenue Officer, Yerraguntla, earlier issued a 'No Objection Certificate' to the 2nd petitioner for electricity supply for the land situated in Survey No.28/2 of an extent of Ac.1.37 cents but not with regard to the land situated in Survey No.67/7. The 4th respondent submitted a representation complaining that the petitioners dug a new bore well on 13.5.2016 in Survey No.67/7 and the digging of the new bore well is causing loss to him. The said representation was enquired into by the Village Revenue Officer and he submitted a report on 19.5.2016 stating that the new bore well was dug on 13.5.2016. Accordingly, a notice was issued to the 2nd petitioner on 20.5.2016 and the 2nd petitioner filed an affidavit before the 3rd

respondent. In the affidavit, he has stated that he is having a bore well in Survey No.67/7 and he merely cleaned it and he did not dig a new bore well. It is also stated that the petitioners never approached the 3rd respondent for cleaning the bore well and cleaning the bore well does not arise since no bore well was existing in Survey No.67/7 prior to 13.5.2016.

4. Learned counsel for the petitioners vehemently submitted that there is only one bore well in Survey No.67/6 as well as in Survey No.67/7 and the statement made by the Tahsildar in his counter affidavit is not correct.

5. In view of the said submission, this Court pointed out to the learned counsel for the petitioners as to whether the petitioners are willing for the seizure of a second bore well if a bore well is already existing. Learned counsel for the petitioners agreed for the same.

6. In view of the same, this Writ Petition is disposed of directing the 3rd respondent not to interfere if there is only one bore well and if there is a second bore well situated either in Survey No.67/6 or Survey No.67/7, he shall issue appropriate notice and take action in the light of the submissions made by the learned counsel for the petitioners.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

A. RAMALINGESWARA RAO,J

Date: 5.3.2018

KPM

