

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.16949 of 2014

ORDER:

Petitioner seeks Writ of Mandamus declaring the action of the respondents in seizing the petitioner's bore-well without proper notice and giving an opportunity to the petitioner as illegal, arbitrary and unconstitutional and consequently direct the respondents to permit the petitioner to get the water from the bore-well to his lemon trees transplanted in his fields.

2a) The petitioner's case in brief is that he is the resident of Chennakeshavapuram, Nadigudem Mandal, Nalgonda District and his entire family depends on the income of cultivation. He transplanted lemon trees in his field. Unfortunately, the wells and the lake in his village were dried up due to drought and thereby, his lemon garden also became dried hence, he wanted to dig a bore-well. As he could not find a suitable place, he dug a bore-well at the tilt of Ravi Lake, which was suitable to get sufficient water to his lemon garden and the surplus water is being used for the drinking purpose of the villagers in the Gram Panchayat. Since 2002, for a period of 12 years the petitioner uninterruptedly used the bore-well water for his lemon garden and he has also been providing drinking water to the villagers.

b) The further case of the petitioner is that on the direction of 2nd respondent, the 3rd and 4th respondents made proposal to solve drinking water problem in Chennakeshavapuram Gram Panchayat. As per the

direction of 2nd respondent, a resolution was passed by the members of the Gram Panchayat. Basing on the proposals, the 2nd respondent through his proceedings Lr.No.D2/OWS/14, dated 05.06.2014 directed the 3rd respondent to seize the bore-well dug by the petitioner and handover the occupation of the seized bore-well to Gram Panchayat with a view to solve the drinking water scarcity in the village and supply water to the people in Chennakeshavapuram village. Thereafter, the 3rd respondent in his proceedings vide B/28/2014, dated 06.05.2014 handed over the seized bore well to the Gram Panchayat and simultaneously directed the 4th respondent that the bore-well should be under the control of office bearers of the Gram Panchayat and drinking water shall be supplied under the supervision of members and office bearers of the Gram Panchayat. The petitioner submits that due to seizure of the bore-well, he became handicapped in supplying water to his lemon trees and they were dried for lack of sufficient water. He challenges the order of respondents as being without notice and hence violative of principles of natural justice.

3a) Learned Government Pleader for Revenue takes notice for respondents 1 to 3 and on instruction, he would submit that due to scarcity of water in the Chennakeshavapuram village and other surrounding villages, the Vice President (Upa-Sarpanch) and Ward Members filed a petition before the 3rd respondent along with the resolution of Gram Panchayat dated 26.08.2013 wherein they submitted that previously some of the villagers of Chennakeshavapuram village

have drilled bore-wells in Ravi Cheruvu (Shikham Land) and on filing the complaints those bore-wells which were irregularly drilled in the Ravi Cheruvu, were seized by revenue authorities. In that context, the Gram Panchayat passed a resolution to request the 3rd respondent to allot the bore-well which was dug by the petitioner, to them to supply drinking water to the Chennakeshavapuram village.

b) Learned AGP would further submit that District Collector—2nd respondent herein has accorded permission to open the previously seized bore-well drilled by the petitioner and to hand over the same to Gram Panchayat, Chennakeshavapuram village to provide drinking water to the villagers and in 2014 the bore-well which was dug by the petitioner illegally in Shikam land, was seized and handed over to the Gram Panchayat, Chennakeshavapuram Gram Panchayat and the same is being used to provide drinking water to the villagers of Chennakeshavapuram village and therefore, the petitioner's request to handover the seized bore well to him to water his lemon garden cannot be acceded.

4) Learned counsel for petitioner would submit that in fact, he is not now asking return of the seized bore-well and his only prayer is to direct the 5th respondent to allot the surplus water to his lemon garden after the drinking water is provided to the villagers.

5) Learned AGP opposing the same, would submit due to scarcity of water in the village, the question of availability of surplus water does not arise and therefore, providing water to the lemon garden of the petitioner is not possible.

6) In view of the submission of learned AGP, the request of the petitioner cannot be considered.

7) Accordingly, this Writ Petition is dismissed. No costs.

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

Date: 06.12.2018
Murthy

U.DURGA PRASAD RAO, J

