

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4807 OF 2017

ORDER:

This writ petition is filed, under Article 226 of the Constitution of India, for the following relief:

“to issue a Writ order or direction, more particularly one in the nature of Writ of Mandamus, declare the action of the 3rd respondent in seizing the borewell of the petitioner without issuing any notice or without following any procedure is nothing but illegal, arbitrary, high handedness but also violation of principles of natural justice and also contrary to the orders of this Hon'ble Court passed in WP No. 18382 of 2016, dated: 14.06.2016 and consequently direct the 3rd respondent not to interfere with the use of the borewell in Sy.Nos. 158 and 158/AA to an extent of Ac. 4.15 Guntas of Kandhagatla Village, Atmakur S. Mandal, Nalgonda District by the writ petitioner without completing the enquiry by giving opportunity to the writ petitioner, and pass.”

2. On earlier occasion, questioning the order passed by this Court in W.P.No.18382 of 2016, dated 14.06.2016, the petitioner therein filed W.A.No.937 of 2016 and the Division Bench of this Court disposed of the same, by recording the submissions of the respective parties therein, directing the Tahsildar - 4th respondent in the appeal (3rd respondent in the writ petition) to consider the explanation submitted by the petitioner on 28.03.2016 in pursuance of the notice dated 21.03.2016 and pass appropriate orders within three months from the date of pronouncement of the judgment.

3. The grievance of the petitioner in the present writ petition is that when the matter came up for admission on 20.02.2017, the proceedings dated 30.01.2017, alleged to have been issued by the 3rd respondent were not placed before the Court and they were a brought-up with ante-date. The sum and substance of the proceedings dated 30.01.2017 is that the petitioner's borewell is situated at a distance of 138 meters from the 4th respondent borewell. Though the learned counsel for the 4th respondent as well as the learned Government Pleader for Revenue asserts that as a matter of fact, measurements were made in the presence of the writ petitioner, the writ petitioner denied the same.

4. After considering the fact that the impugned proceedings dated 30.01.2017 was not produced before this Court by the learned Government Pleader, while the learned Government Pleader could produce the memo dated 19.01.2017, interest of justice would be served, if a direction is issued to the 3rd respondent to issue notice to both the petitioner as well as the 4th respondent and thereafter, pass appropriate orders after conducting the inspection at the site by taking into consideration the complaints of both the parties, within a period of four weeks from the date of receipt of a copy of the order. Till the final orders are passed by the 3rd respondent within the time stipulated above, the petitioner's borewell shall be allowed to operate.

5. Accordingly and with the above observation, this writ petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed as a consequence. There shall be no order as to costs.

CHALLA KODANDA RAM, J

02.01.2018
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