

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.23392 OF 2006

ORDER:

This Writ Petition is filed seeking to declare the proceedings dated 12.10.2006 of the first respondent in Rc.No.AEE3/SRPP Doruvulapalem/06 to the extent of according permission to the 4th respondent to file a criminal case against old Doruvulapalem Village Water and Sanitation Committee, as illegal and arbitrary.

2. The case of the petitioners is that the first petitioner was the Sarpanch of Doruvulapalem Gram Panchayat. As the public of said village required drinking water through overhead service reservoir, after discussion to solve the problem by getting a PWS (Protected Water Supply) scheme with OHSR under Sector Reforms Pilot Project, a grama sabha was held during April, 2003, wherein the villagers elected the leaders of Habitation Water and Sanitation Committee (HWSC) and members and the same was registered. Doruvulapalem Water & Sanitation Group submitted proposals for PWS scheme to solve the drinking water problem in the village. The first petitioner was elected as Chairman and the second petitioner was elected as Treasurer of HWSC. The respondents prepared estimation for Rs.45 lakhs and technical sanction was accorded to Rs.45 lakhs, but Rs.40 lakhs alone was sanctioned. Out of the said amount, only Rs.12.15 lakhs was released to execute the above said work. Accordingly, the HWSC started the work. Further, the petitioners and HWSC were assured by the respondents that the market price of the steel and cement purchased by HWSC for executing the work would be released. But, after execution of part of work, the respondents failed to

adhere to their instructions and they started taking the SSR rates of 2003 while assessing the value of the work. HWSC executed part of the work by spending huge amounts, against which Rs.12.15 lakhs alone was released. At the instance of ruling party leaders, an action was initiated alleging misappropriation of amounts and vide letter dated 24.12.2005. the 1st respondent sent a letter to the Mandal Revenue Officer, Muthukur, alleging that the HWSC has misused Rs.2.90 lakhs out of Rs.12.15 lakhs and thereby requested him to initiate proceedings under Revenue Recovery Act. Questioning the same, the second petitioner filed W.P.No.16850 of 2006. This Court dismissed the said writ petition on 08.09.2006 holding that as on date, no action has been taken by the 3rd respondent under Revenue Recovery Act; correspondence between respondents 2 and 3, which was not marked to the petitioners, cannot form the basis for any action or issuance of a Mandamus. Further, liberty was given to the petitioner therein to seek appropriate remedy before appropriate Forum as and when proceedings under Revenue Recovery Act are initiated by the 3rd respondent. Thereafter, on 12.10.2006, the impugned orders came to be passed according permission to the Assistant Executive Engineer, RWS Section, Muthukur, to file a criminal case. Aggrieved by the same, the present writ petition came to be filed.

3. This Court while admitting the writ petition on 18.12.2006, granted interim stay of impugned proceedings to the extent of prosecution of the petitioner in WPMP No.29806 of 2006. However, till date no counter is filed.

4. In the facts and circumstances of the case and perusal of the material placed before this Court, it is found that the impugned proceedings are internal correspondence between the Office of the Nellore District Water and Sanitation Committee and the Executive Engineer, RWS Division, Nellore. As such, no cause of action arises to the petitioners to file the present writ petition questioning the impugned order, since the same was not marked or served on the petitioners. Before filing a criminal complaint for misappropriation of funds, no opportunity need be given to the petitioners and *Prima facie* satisfaction of the respondents is enough to file a complaint against the persons, who allegedly misappropriated the funds. Hence, there is no irregularity or illegality on the part of the respondents in issuing the impugned proceedings. Hence, the Writ Petition is liable to be dismissed.

5. Accordingly, the Writ Petition is dismissed.

6. Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

12th March, 2018
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