

**HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
HON'BLE MS. JUSTICE J. UMA DEVI
CONTEMPT CASE NO.1021 OF 2018**

ORDER: (per the Hon'ble Sri Justice Ramesh Ranganathan)

The order, violation of which is alleged in this case, is the order passed in WP (PIL) SR No.159685 of 2017 and W.P. No.24566 and 25167 of 2017 dated 12.09.2017. In the said order it is recorded that the subject tank covers land in excess of Ac.39.00 cts; the rights of the implead petitioners, if any, was only subject to the tank bed land being available for cultivation; and they could not claim, as of right, that the State should not construct a bund to ensure storage of water in the tank either for drinking or irrigation purposes. The Division bench had, therefore, directed the respondents to determine the extent of land which fell within FTL limits of the subject tank; and take immediate steps to construct a bund to ensure that the subject tank is capable of storing water during the rainy season, upto FTL limits. The 2nd respondent (the District Collector, Prakaham) was directed to take necessary action in this regard, and submit a report to this Court by the next date of hearing.

A counter-affidavit is filed by the District Collector, Ongole stating that he had accorded administrative approval for formation of a bund, for the Krishnamraju Cheruvu in Devarapalli village, at an estimated cost of Rs.27.35 lakh, vide proceedings dated 23.09.2017; in view of the urgency he had directed the Superintending Engineer to complete the work within two months; the Superintending Engineer had accorded technical sanction for the work; tenders were called for vide notice dated 27.09.2017; the Superintending Engineer had submitted a report on 24.06.2018 stating that the agency could not complete the work within the agreement period; the first extension of time i.e, upto 31.03.2018 was given because the area for storage of

water in the tank, and the area of formation of bund, was fully water logged; the Chief Engineer had permitted extension of time upto 31.07.2018 to complete formation of the bund; during summer, water in the tank had dried up, and the contractor had resumed the work; formation of bund, across Krishnamraju Cheruvu, was completed for a length of 650 metres with a top width of 3 metres height of the bund upto 1.75 metres with side slopes as 1½:1; formation of the bund was completed on 24.06.2018; and the tank is capable of storing water during the rainy season upto full tank level.

Sri N. Sridhar Reddy, Learned Counsel for the petitioner, would submit that the very object of filing the Writ Petition has been defeated by the bund now constructed by the respondent officials; the petitioner had complained only of breach in the existing bund, which had resulted in water, in the tank, being drained; while a bund has no doubt been constructed in that part which had breached earlier, the respondents have also constructed a bund on the upper side of the tank; they have failed to provide any inlets for water to flow into the tank; construction of a bund on the upper side of the tank would result in water not flowing into the tank; under the guise of complying with the order of this Court, the respondent officials have ensured that the subject tank remains dry; thereby those who were cultivating lands within FTL limits earlier would continue to cultivate the subject land; and the order passed by this Court has, in effect, been violated.

While failure of the respondents to provide inlets for water to flow into the tank may well result in the possibility of water not being stored therein upto its full tank limits, except when there is heavy rain within the tank limits itself, it must be borne in mind that the jurisdiction which this Court exercises, under the Contempt of Courts Act, is extremely limited. It is only if the order of this Court has been

violated, and such violation is held to be wilful and deliberate, would this Court then proceed to punish the respondents under the Contempt of Courts Act.

The order of this Court required the respondents to determine the extent of the land which fell within the FTL limits of the subject tank, and take immediate steps to construct a bund to ensure that the subject tank is capable of storing water during rainy season upto its FTL limits. While constructing a bund would enable water to be stored into the tank during rainy season, it may well result in water not flowing into the tank because of the failure of the respondents to provide inlets. That may possibly not advance the purpose of constructing a bund. It cannot, however, be said that failure to provide inlets, for water to flow into the tank, would amount to wilful and deliberate violation of the order passed by this Court, since no specific direction was issued to the respondents to provide inlets when the bund was constructed.

While the grievance of the writ petitioner cannot be said to be unfounded, his remedy lies in seeking appropriate directions in independent legal proceedings, and not under the Contempt of Courts Act, as the scope of enquiry in contempt proceedings is extremely limited. We see no reason, therefore, to proceed against the respondent under the Contempt of Courts Act. The Contempt Case is, therefore, closed. The miscellaneous petitions pending, if any, shall also closed. No costs.

RAMESH RANGANATHAN, J

J. UMA DEVI, J

Date: 03.08.2018.

MRKR