

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.26359 OF 2018

O R D E R :

This writ petition is filed challenging the action of the 4th respondent in not acting on the representation dated 10.07.2018 submitted by the petitioner and the action of the respondent Nos.5 to 7 in interfering with the petitioner's usage of borewell situated in Sy.No.107 of Velpucherla Village, Muddanur Mandal, YSR District.

Heard learned counsel for the petitioner.

Learned Assistant Government Pleader for Home produced written instructions stating that basing on the complaint of 8th respondent, the 7th respondent registered a case in Crime No.13/2016 on 28.01.2016 for the offences under Section 427 r/w 34 IPC and Section 3 of the PDPP Act; that the case was charge sheeted on 30.10.2016 vide C.C.No.264/2016 which is pending trial. The complaint of the petitioner was also investigated into; that the investigation revealed that the petitioner lodged false complaint against the accused; that in this connection the Sub-Divisional Police Officer, Jammalamadugu, accorded permission to refer the case as 'false' vide C.No.25/SDPO-JMD/2017, dated 28.02.2017; and that after serving the notice to the complainant, final report as 'false' was filed before the Judicial Magistrate of First Class, Jammalamadugu on

06.04.2017. It is further stated that except registering the above FIRs and investigated into, the 7th respondent did not interfere with the petitioner's usage of bore well. The other allegations that the 7th respondent prevented the petitioner and joint owners of the bore well for using it and seizing the electrical pump set starter on two occasions were all denied.

The 6th respondent filed counter stating that there is only one bore-well in Survey No.107 which belongs to government and the same was dug through the RWS Department to provide drinking water to the villagers. It also stated that the petitioner approached the village elders and requested to use the water from the said bore-well saying that he needs water for the agricultural operations and also saying that there is a sufficient water in another bore-well for public purpose; and that the Gram Panchayat and village elders refused to give the water to the petitioner from the said bore-well. It is further stated that the 8th respondent made a complaint against the petitioner only when the petitioner tried to grab the public bore-well to use the same to his individual purpose.

All these disputed questions of fact cannot be adjudicated in the writ petition under Article 226 of the Constitution of India. Hence, this Court is not inclined to entertain the writ petition.

Accordingly, the writ petition is disposed of granting liberty to the petitioner to avail alternate remedy as may be available to him under law seeking declaration of the rights. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

09.08.2018
t k.

