

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.40075 OF 2018

Date: 08.11.2018

Between:

K.Vidya Sagar Reddy, s/o. K.Agam Reddy,
Aged about 44 years, occu: Agriculture,
r/o. Borlam Village of Banswada Mandal,
Nizamabad District, Telangana State.

.....Petitioner

and

The State of Telangana, rep.by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others.

.....Respondents



The Court made the following:

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ORDER:

Respondent No.7 herein instituted O.S.No.4 of 2014 on the file of Court of Junior Civil Judge, Banswada to grant mandatory injunction directing defendants 2 to 4 to restore the irrigation source, supply of water to the suit land of the plaintiff. By order dated 02.05.2018, suit was decreed and direction was issued to defendants 2 to 4 to restore water supply to the plaintiff's suit lands through the temporary canals by removing the obstructions which was laid by the defendant no.5 - petitioner herein. Aggrieved thereby, petitioner preferred A.S.No.22 of 2018 pending on the file of VII Additional District and Sessions Judge at Bodhan. The first appellate Court by order dated 26.06.2018 made in I.A.No.131 of 2018 allowed the I.A., and ordered stay of execution of the judgment and decree till the disposal of the appeal suit. Plaintiff filed Civil Revision Petition No.4408 of 2018 challenging the order of first appellate Court in I.A.No.131 of 2018. By order dated 31.08.2018, learned single Judge of this Court stayed operation of order in I.A.No.131 of 2018 initially for a period of four weeks. The Civil Revision Petition was finally disposed of by order dated 20.09.2018. A reading of the order in the Revision would show that this Court observed that as neighbouring farmers are drawing water from Nizamsagar canals and cultivating the lands in the vicinity, plaintiff is also entitled to irrigate his land from the water available in Nizmsagar canals. At this stage representation was made on behalf of petitioner to fix time limit for disposal of the appeal suit. Having regard to the request made by the learned counsel for petitioner, Civil Revision Petition was finally disposed of directing the VII Additional District Judge, Nizamabad at Bodhan to dispose of the first appeal within three months from the

date of receipt of copy of that order. Court further ordered to continue the interim order earlier granted in the revision till disposal of first appeal. Petitioner earlier filed W.P.No.19488 of 2018 challenging the letter of Assistant Engineer addressed to MPDO, Banswada dated 07.06.2018, where under the Assistant Engineer requested the respective Field Assistants to arrange the MGNREGS labour to excavate the temporary canal. However, petitioner withdrew the said writ petition with liberty to pursue the A.S.No.22 of 2018.

2. This writ petition is filed praying to give directions to respondents 3 to 6 to consider the representation of petitioner and direct the respondents 3 to 6 not to dig the land of petitioner without showing the sufficient and proper measurements for excavation/restoration of the canal by the 7th respondent.

3. Having regard to the history of litigation and the orders issued by this Court in Civil Revision Petition No.4408 of 2018, no direction as sought for can be granted in this writ petition. Apparently, there is *inter se* dispute between the petitioner and the 7th respondent and the 7th respondent succeeded in the trial Court and also before this Court in CRP No.4408 of 2018. This Court cannot entertain the writ petition filed under Article 226 of the Constitution of India and issue direction, which may impact the decree passed by the trial Court and the directions issued by this Court in exercise of revisional jurisdiction. Writ Petition is accordingly dismissed leaving it open to petitioner to work out his remedies before the appellate Court in the pending Appeal Suit. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

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