

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.23724 OF 2021

ORDER:

The petitioner approached the Court seeking the prayer which is as follows:

“To issue Writ or Direction preferably Writ of Mandamus, declaring the action of the respondents in proposing to construct a check dam at upstream level across the musu river at M.V.Singaram (v) Palakaveedu (M) Suryapet District and not considering the representation dated 11.06.2021 to the respondent Nos.2 to 4 and representation dated 14.06.2021 submitted to the respondent No.6 and also resolution dated 21.05.2021 of the Gramapanchayat M.V.Singaram (v) as illegal and arbitrary and consequently direct the respondents to construct the check dam across Musu river by considering the request of the villagers at 1 km down of the proposed construction place at M.V.Singaram (v) pass such other or further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

2. Counter affidavit filed by the 5th respondent, in particular, Para 8 of the counter affidavit reads as under:

“8. It is humbly submitted that the basic principle of construction of check dam is to store water intact and to rise the groundwater. It is only an apprehension of the petitioner that water will not flow downstream of the check dam. In the circumstances submitted above, it is humbly submitted that, as the construction of check dam will not have any influence on the downstream irrigation of farmers and provision of shutters and gates in the check them will defeat the basic principle of construction of check dam and the request of the petitioner could not be considered as it is against the Technical/engineering Principles of water flow. It is further submitted that the reply to the representations of farmers dated 11.06.2021, 14.06.2021 and to the Gram Panchayat resolution on 21.05.2021 was given vide this officer letter dated 27.09.2021.”

3. It is represented by both learned counsel for the petitioner and learned Government Pleader for Irrigation that in view of the specific averments made in para 8 of the counter filed by the 5th respondent the cause of action in the present writ petition does not survive for further adjudication.

4. Bringing the said submission on record, the writ petition is dismissed as infructuous. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

MRS JUSTICE SUREPALLI NANDA

Date:07.02.2023
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