
(2003) 04 AP CK 0131

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5192 of 2003

Ellaturu Siddaiah

APPELLANT

Vs

Revenue Divisional Officer and Others

RESPONDENT

Date of Decision : 15-04-2003

Acts Referred:

Andhra Pradesh Water Land and Trees Act, 2002 — Section 10(3), 2(1), 33, 45
Andhra Pradesh Water Land and Trees Rules, 2004 — Rule 12, 3

Citation : (2003) 6 ALD 88 : (2003) 4 ALT 346

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : D. Kodandarami Reddy, for the Appellant; Government Pleader for Respondent Nos. 1 to 3, for the Respondent

Judgement

V.V.S. Rao, J.—The petitioner is a resident of Padigalapalle village in Cuddapah District. It is his case that he dug a bore well in Sy.No. 468 of Kolumulapale village and cultivating the land. The bore well which was dug long back got damaged due to heavy floods in October 2001. Therefore, he dug another bore well after obtaining permission of the Village Secretary. He now alleges that at the behest of the fourth respondent, the Mandal Revenue Officer (MRO) issued a show cause notice dated 20-2-2003 asking for explanation of the petitioner for digging bore well in Sy.No. 468 without permission. The petitioner gave a reply on 3-3-2003 and also sent a legal notice through his counsel on the same day. The second respondent conducted enquiry and submitted a report dated 20-3-2003 to the first respondent who instructed the MRO to seize the bore well. Therefore, he filed the writ petition seeking a writ of mandamus holding that the action of the first respondent in directing respondents 2 and 3 to seize the borewell is illegal and contrary to law.

2. The A.P. State Legislature has enacted a comprehensive law called Andhra Pradesh Water, Land and Trees Act, 2002 (the Act) to promote water conservation and tree cover and to regulate exploitation and use of ground and

surface water for protection and conservation of water sources, land and environment and matters connected therewith. The Act has come into force on 25-6-2002. Section 45 enables the Government to make rules. In exercise of the said power, A.P. Water, Land and Trees Rules, 2002 have been made. As per Rule 3 of the said Rules, various authorities at State level, District level and Mandal level have been constituted. Chapter 3 of the Act contains measures to be taken for protection of ground water. These require registration of wells, prohibition of water pumping in certain areas and obtaining of permission for digging of a well. The Act also provides for protection of drinking water sources.

3. Rule 12 of the Rules require permission to be obtained for digging a new bore well or a well. The same reads as under.

12. Permission for new wells:--

(1) Any person or institution desiring to dig a new well of any kind in their premises should submit to the Authority having jurisdiction over the area, an application in Form 2 appended to these rules together with a fee as fixed by the authority from time to time. The Authority shall process the application with the help of the Designated Officer. The Designated Officer after examining the application shall satisfy himself about the compliance of the various provisions of the Andhra Pradesh Water, Land and Trees Act, 2002 and give his recommendation to the Authority and the said Authority shall dispose off the application within forty-five days of receipt of the application. The Designated Officer while disposing off the application, shall comply with the provisions of Sub-section (3) of Section 10 of the Act. Wherever necessary, it shall take the opinion of the Technical Officer of that area. Every order for permission shall be in Form 3 appended to these rules:

4. As can be seen from the above, a person desiring to dig a new well of any kind in his premises has to approach appropriate authority by making an application in Form 2 for permission. The authority is defined u/s 2(1), The authority competent to grant permission is Mandal level authority by reason of delegation of powers u/s 33 of the Act. The Village Secretary is not competent, to grant any permission. Therefore, the petitioner's contention that he obtained permission and dug a bore well cannot be countenanced.

5. Insofar as the validity of the direction issued by the first respondent is concerned, in view of the subsequent events, the same need not be gone into. The learned Asst. Govt. Pleader for Revenue has produced the file before this Court. The same discloses that the petitioner approached the District Collector and made a representation, whereupon the District Collector directed the Revenue Divisional Officer to conduct enquiry after obtaining necessary report from the MRO. Though for the purpose of Rule 12 of the Rules, the MRO is competent authority, as the District Collector directed the first respondent herein, an enquiry may be conducted expeditiously and appropriate orders be passed within a period of four weeks from the date of receipt of copy of this order. The

learned Asst. Govt. Pleader also submits that the bore well of the petitioner was not seized. The same is recorded.

6. The writ Petition, with the above observations and directions, is accordingly disposed of at the admission stage.