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Delhi High Court

Case No: Writ Petition (C) No. 6912 of 2009

Sh. Durga Prasad	APPELLANT
Vs	
The Govt. of NCT of Delhi and Others	RESPONDENT

Date of Decision: Sept. 24, 2010

Hon'ble Judges: Rajiv Sahai Endlaw, J

Bench: Single Bench

Advocate: V.P. Singh Charak, Shubhra Parashar and P.P. Singh, for the Appellant; Manisha Narain, for Respondent No. 3/MCD, Jitendra Kumar, for Sumeet Pushkarna, for Respondent No. 4/DJB, P. Mallikarjuna, Saleem Ahmed and J.D. Meena, Inspector for Respondents 5, 6, 7, for the Respondent

Final Decision: Dismissed

Judgement

Rajiv Sahai Endlaw, J.

The petitioner claims to be a resident of house No. G-209A, Sangam Vihar, New Delhi. The respondent No. 4 Delhi Jal Board (DJB) is informed to have installed tube-wells in the said colony of Sangam Vihar for supply of water to the residents of the colony. The petitioner claims that one such tube-well is installed in the gali/passage in front of house No. G-202, Sangam Vihar, New Delhi of the respondent No. 2. The petitioner admits that the residents of the Block have laid their own pipelines for receiving water from the said tube-well in their houses. The grievance of the petitioner is that the respondent No. 2 is controlling the supply of water through the said tube-well and illegally charging the residents for the water supply; the petitioner contends that upon the petitioner refusing to pay the increased charges illegally demanded by the respondent No. 2, the respondent No. 2 has disconnected the supply of water from the said tube-well to the house of the petitioner. The representations of the petitioner to the various authorities having resulted in no relief to the petitioner, the present petition has been filed for direction to various authorities to ensure supply of water through the said tube-well to the house of the petitioner.

2. The respondent No. 4 DJB has filed a status report/affidavit stating that there being no municipal supply of water to the colony as yet, it has dug tube-wells in the said colony; that the supply of water through the said tube-wells is free of costs; that the said tube-wells are electrified and not manned by the respondent No. 4 DJB on normal basis as they are run on an automatic system in place, to switch on at stipulated hours and switch off thereafter; that it has not laid down any pipelines for supply of water to individual houses from the said tube-wells; however the residents of the colony have laid down their own private GI pipe network for supply of water from the tube-wells to their own houses; there is no sanction from the respondent No. 4 DJB for the same. The respondent No. 4 DJB has further stated that it is not in position to supervise and control the supply of water from the said tube-wells and the only action which it can take if directed by this Court is to disconnect the entire GI pipeline laid by the residents for supply of water to their respective houses from the tube-well and in which case all residents will have to come to the point of the tube-wells to collect water. It is further informed that the work of construction of underground reservoir and pumping station with peripheral line is in progress and is likely to be commissioned by the year 2011 depending upon availability of water from the neighbouring State.

3. The SHO PS Sangam Vihar (respondent No. 7) has also filed a status report stating that respondent No. 4 DJB has approximately 68 tube-wells/hand-pumps in Sangam Vihar and which have been handed over to local leaders who supply water in a discriminatory manner and charge in the name of electricity/maintenance charges. It has further been stated that several other water disputes are reported from the said colony.

4. The respondent No. 3 MCD has filed a counter affidavit to the effect that it has nothing to do with the matter.

5. The respondent No. 2 has also filed a counter affidavit stating that the petitioner is a mischievous person with a criminal record; that while she leads one set of residents of the colony, the petitioner leads the other; that there are five tube-wells in the G-Block of Sangam Vihar and of which one is looked after by the petitioner, three others by some other persons and one in front of the house of respondent No. 2 by her; that the respondent No. 4 DJB has put a timer and lock on each of the tube-wells; she has denied that she is charging anything from the residents as alleged by the petitioner; on the contrary it is averred that the petitioner who has a number of tenants in his house and has been charging his tenants for water has been unnecessarily making complaints against the respondent No. 2 for ulterior motives.

6. The concerned Sub Divisional Magistrate (Kalkaji) (respondent No. 9) has also filed a counter affidavit washing his hands off the dispute.

7. In the aforesaid state of affairs, finding that the grievance of the petitioner was with respect to law and order problem allegedly created by the respondent No. 2, it was enquired from the Counsel for the petitioner as to what order could be made. It was felt

that no order could be made against any of the agencies or against the respondent No. 2 inasmuch as it would entail a continuous duty which the Court cannot supervise. Neither was it found possible as suggested by the Counsel for the petitioner to post a police personnel at each tube-well. The matter was therefore adjourned asking the Counsel for the petitioner to come up with a suggestion as to an implementable order which could be made in the present proceedings.

8. The Counsel for the petitioner has not made any suggestion. On the contrary, he has stated that the respondent No. 4 DJB should be asked to place before this Court their policy with respect to the tube-wells. No merit is found in the said suggestion of the Counsel for the petitioner. The respondent No. 4 DJB in its affidavit has already informed that though the colony does not have the municipal water supply but to provide the amenity of water to the residents, tube-wells have been dug. There is thus no question of any policy.

9. The disputes raised by the petitioner are essentially factual disputes. There is admittedly animosity between the petitioner and the respondent No. 2. The petitioner has sought to drag the various agencies in the said dispute. The same cannot be permitted. The petitioner has been privy to laying of private pipeline network for supply of water to individual residences from the tube-well. The same was not provided by respondent No. 4 DJB. The offer of respondent No. 4 DJB of disconnecting the said network cannot also be accepted inasmuch as the same would prejudice a large number of residents of the colony and who are not before this Court.

10. The question whether the respondent No. 2 is interfering in any manner whatsoever with the supply of water from the tube-well in front of her house and/or whether the petitioner also is guilty of similar action with respect to another tube-well are questions of fact which cannot be gone into in the present proceedings. The writ remedy is not found to be a proper remedy in the circumstances.

11. The petition is therefore dismissed as not maintainable with liberty to the petitioner to take appropriate remedy to have the factual controversy adjudicated. No order as to costs.