

## BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI

O.A. No. 193 of 2021 (SZ)

IN THE MATTER OF:

1. D. Rajavardhan Reddy
2. Perapogu Kishore

...Applicants

Versus

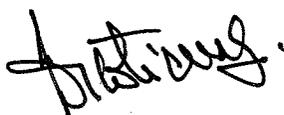
1. The State of Andhra Pradesh,  
Revenue Department, A.P. Secretariat
2. The Engineer-in-Chief, Irrigation Department  
Vijayawada
3. The Superintending Engineer  
Irrigation (Medium & Minor) Circle, Kurnool  
Kurnool District
4. The District Collector  
Kurnool District
5. The Revenue Divisional Officer  
Kurnool Revenue Division, Kurnool
6. The Executive Engineer  
Water Resource Department  
Minor Irrigation Water Division, Kurnool
7. Dhulipalla Koti Swamy
8. Araveti Babaiah
9. Duddempudi Kiran Kumar
10. Saparu Rajasekharappa
11. Dhulipalla Venkata Rao

...Respondents

REPLY STATEMENT ON BEHALF OF THE RESPONDENT NOS. 7 TO 11 TO  
COUNTER AFFIDAVIT FILED BY 2<sup>ND</sup>, 3<sup>RD</sup> AND 6<sup>TH</sup> RESPONDENTS

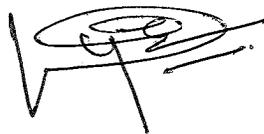
The Respondent Nos. 7 to 11 most humbly submit as follows:

- I. It is submitted that the present reply is being filed in response to the misconceived counter affidavit filed on behalf of the 2<sup>nd</sup>, 3<sup>rd</sup> and 6<sup>th</sup> Respondents (hereinafter collectively referred to as "Irrigation Department"). The Counter Affidavit filed by the Irrigation Department manifestly evidences their

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A. Babaiah



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lackadaisical attitude in not bringing the entire facts on record. The Irrigation Department's counter affidavit is riddled with false and misleading statements. Accordingly, at the very outset, nothing stated in the counter affidavit of the Irrigation Department may be deemed admitted by the Answering Respondents herein, unless such admission is expressly borne out from the contents of the present Reply.

## II. Preliminary Objections

It is submitted that the counter affidavit filed on behalf of the Irrigation Department is contrary to the report dated 06.12.2021 submitted before this Hon'ble Tribunal, wherein it has been duly recorded that as per revenue records, of B. Thandrapadu Village of Kurnool Rural Mandal, there is no extent of Cheruvu (Tank) in question. The counter-affidavit presently under reply is liable to be discarded for this reason alone.

## III. Preliminary Submissions:

1. Without prejudice to the Preliminary Objections above, it is further submitted that the counter affidavit of the Irrigation Department is bereft of any scientific data and is only based on assumptions and baseless predictions. It appears that the Irrigation Department has no clear understanding of the nature of the dispute / grievance raised in the captioned Original Application and the Irrigation Department also appears to have miserably failed to appreciate the contents of the Reply filed on behalf of the unofficial respondents in the matter.
2. It is further submitted that even as per the map enclosed by the Irrigation Department with its counter affidavit, the purported cheruvu / tank is only at Sy. No. 78 with an extent of 0.83 acres. Therefore, the question of the alleged cheruvu / tank, if any, getting affected because of the development activities on the patta lands of the Respondents 7 to 11, including Survey Nos. 81/1 and 299, does not arise.

*[Handwritten signature]*

A. Babarsh

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S. Aridhu

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3. It is further submitted that the Irrigation Department has conveniently ignored the fact that the Respondents 7 to 11 have been granted permission/approval to convert their lands in question from agricultural to non-agricultural purposes by the government authorities themselves, upon payment of the applicable conversion fee. It may not be out of place to highlight that there are other similarly placed patta holders who have also filled/developed their lands, including several educational institutions and residential colonies. However, the Applicants herein have the present original application only in relation to the property of the Respondents 7 to 11 herein. Even the irrigation department's counter affidavit is silent about the filling and development of the lands by the other pattadars.
4. Additionally, the stand of the Irrigation Department suffers from inherent contradictions and hence untenable, inasmuch as in the counter affidavit it is admitted that *"....there will be little impact of environment, due to earth filling of foreshore of the tank in Sy.No:80/1 and 299 of B.Thandrapadu Village Kurnool Rural Mandal,the patta owners namely ....."* and that *"There is no major impact on environment as there are no big trees in the filled-up area of Sy. No. 81/1 and 299 (Foreshore). There is no much impact on forest and wild life..."*
5. In fact, the assertion of the Irrigation Department that the land of the unofficial Respondents herein is in the foreshore is completely baseless as the revenue records i.e. the Re-settlement Survey (RSR) of the village clearly state that the land at survey numbers 80/1 and 299 are patta lands. In this regard, it would be important to take note of the fact that it is the Revenue Department, and not the Irrigation Department, which is competent to comment on the nature of the land.

**Para-wise Submissions:**

1. The contents of Para 1, merit no response. It is however reiterated that for the reasons contained in the Reply Statement of the Respondents 7 to 11 dated 09.02.2022, as well

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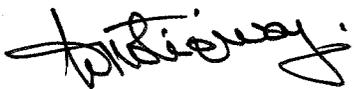
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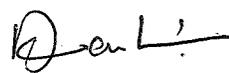
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as the present reply, the contentions in the captioned original application is liable to be rejected with costs.

2. The contents of Para 2, to the extent matters of record, merit no response. The contents of Para 2 which relate to the assertions regarded that the alleged Gangamma Cheruvu, including but not limited to the purported ayacut and purpose, are vehemently denied. The same is not backed by any cogent material or basis. The Irrigation Department is claiming the same based on assumptions and self-serving documents and the Irrigation Departments is accordingly put to strict proof regarding the same.
3. The contents of Para 3 merit no response from the Respondents 7 to 11 and are accordingly hereby denied.
4. The contents of Para 4, insofar the same states that "*the cultivators can't be allowed to convert their lands into any other purpose other than cultivating*", is wholly without basis, erroneous and hence vehemently denied. It is submitted that the Irrigation Department has no authority / competence to form any such opinions, contrary to existing to legal position. It is submitted that Respondents have obtained permission/approval from the competent authorities to convert their land, including the land in Survey Nos. 81/1 and 299, from agricultural to non-agricultural use by paying the applicable conversion fee. The copy of receipt of *meesava* portal in relation to land conversion (NEW) G.O. Ms. No. 98 dated 10.03.2020 and the receipt for fee paid for conversion have already been placed on record by way of the reply dated 09.02.2022.
5. The Contents of para 5 are matters of record and hence merit response from the Respondents 7 to 11 herein.
6. Insofar as the contents of paragraph 6 onwards, the same to the extent contrary to the submissions of the Respondents 7 to 11 in their reply statement dated 09.02.2022 as well as the present reply, are strongly denied. The contentions in the said paras are denied as false and misleading and the Irrigation Department is accordingly put to



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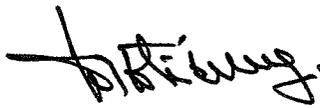
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strict proof of their averments in the said paragraphs, including in particular regarding water storage area, salient features of the tank and purpose, as alleged. It is pertinent to note that as per the Andhra Pradesh Building Rules, 2017, notified under G.O. Ms. No. 119 dated 28.03.2017, the Full Tank Level is required to be measured and certified by both the Irrigation Department and the Revenue Department and hence the unilateral fixation of FTL by Irrigation Department as in the present case is legally unsustainable. It is further denied that the filling of lands of the Respondents 7 to 11 would in any manner cause shortage of irrigation water or affect ground water recharge or in any manner adversely affect cattle/animal feeding, vegetation, flora and fauna, birds, water feeding or drinking water, as alleged or at all. There is no material whatsoever to substantiate the claim that the Gangamma Cheruvu falls under Sy. No. 81 and 299 belonging to the Respondents 7 to 11. The land in said survey numbers is private patta land and the bona fide purchasers of said land have converted the land from agriculture to non-agriculture usage strictly in accordance with the procedure prescribed under law.

Dated at Kurnool on this 2<sup>nd</sup> day of July, 2024.



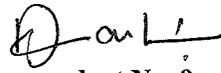
Counsel for the  
Respondent Nos. 7 to 11



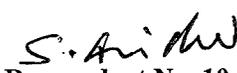
Respondent No. 7



Respondent No. 8



Respondent No. 9



Respondent No. 10



Respondent No. 11

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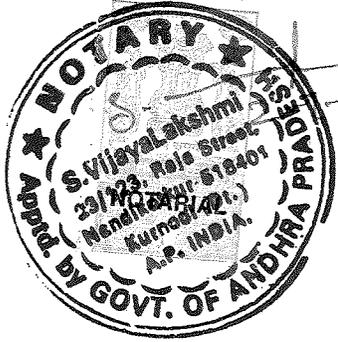
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VERIFICATION

We, (1) Dhulipalla Koti Swamy, son of D. Veeraiah, aged about 65 years, residing at H.No. 45-203-2-4-401, Sai Padmaja Enclave, Ashok Nagar, Kurnool city, (2) Araveti Babaiah, son of Araveti Subbaiah, aged about 63 years, residing at H.No. 15-9C-10/9C, Saibaba Peta, Nandikotkur, Kurnool District, (3) Duddempudi Kiran Kumar, son of D. Venkateswarlu, aged about 50 years, residing at H.No. 46-1M-DE-501, Sapthagiri Nagar, Kurnool city, (4) Sapuru Rajasekharappa, son of Sapuru Kumarappa, aged about 48 years, residing at H.No. 23/23-123B, Rajaveedhi, Nandikotkur, Kurnool District, and (5) Dhilipalla Venkata Rao, son of Dhupalla Veeraiah, aged about 60 years, residing at D.No. 8-2-293/82/BE/20, Navanirman Nagar, Near Jubilee Hills Public School, Jubilee Hills, Hyderabad, do hereby verify and state that the contents of the above Reply Statement are true to the best of our knowledge, belief and information and based on legal advice.

Dated at Kurnool on this <sup>nd</sup> 2 day of July, 2024.



*[Signature]* A. Babaiah  
Respondent No. 7      Respondent No. 8

*[Signature]*      *[Signature]*  
Respondent No. 9      Respondent No. 10

*[Signature]*  
Respondent No. 11

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