

WP(C) 36/2009

ITEM NO.11

COURT NO.1

SECTION PIL

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) NO(s). 36 OF 2009

IN RE: MEASURES FOR PREVENTION OF FATAL
ACCIDENTS OF SMALL CHILDREN DUE TO THEIR
FALLING INTO ABANDONED BORE WELLS AND TUBE WELLS

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With office report)

Date: 11/02/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE C.K. PRASAD

Mr. Paramjit Singh Patwalia, Sr. Adv.

(A.C.)

For Petitioner(s)

For Respondent(s)

Ms. Indira JaiSing, ASG
Mr. Ashok Bhan, Adv.
Ms. Sadhna Sandhu, Adv.
Mr. C.K. Sharma, Adv.
Mr. D.S. Mahra, Adv.

For State of Haryana

Mr. Manjit Singh, AAG for Haryana
Mr. Kamal Mohan Gupta, Adv.
Ms.Reeta Chaudhary, Adv.
Mr. Gaurav Teotia,Adv.

For State of Punjab

Mrs. Jayshree Anand, AAG for Punjab
Mr. K.K. Mahalik, Adv.
Mrs. Noor Jahan, Adv.
Mr. Kuldip Singh, Adv.

For State of Raj.

Dr. Manish Singhvi, AAG for Rajasthan
Mr. Devanshu Kumar Devesh, Adv.
Mr. Milind Kumar, Adv.
Mr. T. Harish Kumar, Adv.

For State of U.P.

Mr. Shail Kumar Dwivedi, AAG for U.P.
Mr. Manoj Kr. Dwivedi, adv.
Ms. Vandana Mishra, Adv.
Mr. Ashutosh Kr. Sharma, Adv.
Mr. Gunnam Venkateswara Rao, Adv.

For State of T.N.

Ms. Promila, adv.
Mr. S. Thananjayan, Adv.

UPON hearing counsel the Court made the following O R D E R

Certain safety measures/guidelines have been given in the signed order which are to be observed by all the States. The guidelines given in the signed order shall be given wide publicity through the national television channels. A copy of this order be sent to the Chief Secretaries of all the States/Union Territories who shall forward the same to the District Collectors of all Districts of their respective State.

For further directions post this matter after 12 weeks.

Ajay Kr. Jain)
Court Master

(Veera Verma)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION(C)NO.36 OF 2009

In Re: Measures for Prevention of Fatal Accidents of Small Children Due to Their Falling Into Abandoned Bore Wells and Tube Wells Petitioner

Versus

Union of India & Ors. Respondents

O R D E R

Heard the learned Amicus Curiae and the learned Addl. Solicitor General appearing for the Union of India.

It has been brought to the notice of this Court that in a number of cases children had been trapped and fallen into bore wells and tube wells or abandoned wells. These reports have been coming from various States. Accordingly, we took suo motu initiative and issued notice to the various States to take immediate measures to prevent such kind of incidents.

The Union of India has filed its counter affidavit giving certain guidelines to be followed by the States.

We have perused the affidavit and the guidelines suggested by the Union of India.

Having regard to the number of incidents that have taken place during the recent past and immediate need for preventing such incidents in future, we direct that the following safety measures/guidelines are to be observed by all the States :-

(i)"The owner of the land/premises, before taking any steps for constructing bore well/ tube well must inform in writing at least 15 days in advance to the concerned authorities in the area, i.e., District Collector/ District Magistrate/Sarpanch of the Gram Panchayat/ concerned officers of the Department of Ground Water/ Public Health/ Municipal Corporation, as the case may be, about the construction of bore well/tube well.

(ii)Registration of all the drilling agencies,viz., Govt./Semi Govt./Private etc. should be mandatory with the district administration.

(iii)Erection of signboard at the time of construction near the well with the following details :-

(a) Complete address of the drilling agency at the time of construction/ rehabilitation of well.

(b) Complete address of the user agency/ owner of the well.

(iv) Erection of barbed wire fencing or any other suitable barrier around the well during construction.

(v) Construction of cement/concrete platform measuring 0.50 x 0.50 x 0.60 meter (0.30 meter above ground level and 0.30 meter below ground level) around the well casing.

(vi) Capping of well assembly by welding steel plate or by providing a strong cap to be fixed to the casing pipe with bolts & nuts.

(vii) In case of pump repair, the tube well should not be left uncovered.

(viii) Filling of mud pits and channels after completion of works.

(ix) Filling up abandoned borewells by clay/sand /boulders/pebbles/drill cuttings etc. from bottom to ground level.

(x) On completion of the drilling operations at a particular location, the ground conditions are to be restored as before the start of drilling.

(xi) District Collector should be empowered to verify that the above guidelines are being followed and proper monitoring check about the status of boreholes/tubewells are being taken care through the concerned State/Central Government agencies.

(xii) District/Block/Village wise status of bore wells/tubewells drilled viz. No. of wells in use, No. of abandoned bore wells/tube wells found open, No. of abandoned borewells/tubewells properly filled up to ground level and balance number of abandoned borewells/tubewells to be filled up to ground level is to be maintained at District Level.

In rural areas, the monitoring of the above is to be done through Village Sarpanch and the Executive from the Agriculture Department.

In case of urban areas, the monitoring of the above is to be done through Junior Engineer and the Executive from the concerned Department of Ground Water/Public Health/ Municipal Corporation etc.

(xiii) If a borewell/tubewell is 'Abandoned' at any stage, a certificate from the concerned department of Ground Water/Public health/Municipal Corporation/Private contractor etc. must be obtained by the aforesaid agencies that the 'Abandoned' borewell/tubewell is properly filled upto the ground level. Random inspection of the abandoned wells is also to be done by the Executive of the concern agency/department. Information on all such data on the above are to be maintained in the District Collector/ Block Development Office of the State.

The guidelines abovementioned shall be given wide publicity through the national television channels. A copy of this order be sent to the Chief Secretaries of all the States/Union Territories who shall forward the

same to the District Collectors of all Districts of their respective State.

For further directions post this matter after 12 weeks.

.....CJI.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(C.K. PRASAD)

NEW DELHI;
FEBRUARY 11, 2010