

HONOURABLE SMT. JUSTICE V. SUJATHA**WRIT PETITION No.4118 of 2019****ORDER:**

The present writ petition came to be filed under Article 226 of the Constitution of India seeking the following relief:

“...to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring not taking action by the respondents 2 to 7 against the respondents 8 to 10 for evicting from encroachment in Survey No.67 of R & B road margin of Gollavilli Village, Uppalaguptam Mandal, East Godavari District by following the due process of law either Land Encroachment Act or Board Standing Orders or Andhra Pradesh Gram Panchayat Act and also violations of Articles 14, 19 and 21 of the Constitution of India and pass such...”

2. The petitioners' case is that the petitioner Nos.1 and 2 purchased an extent of Ac.0.02 cents each in Survey No.66/1 of Gollavilli Village, Uppalaguptam Mandal, East Godavari District by way of Registered Sale Deed vide Document Nos.750 of 2018 and 751 of 2018, dated 06.03.2018 from their respective vendors and have been in possession and enjoyment. The R & B road is situated at eastern side of the above property and on the northern side there is a cement road belong to Gram Panchayat. Adjacent to the R & B Road in the Gram Panchayat, there is a ring well for drinking water to the villagers and the said ring well

is situated on the road corner in between the R & B Road and the Panchayat road.

3. The grievance of the petitioner is that the respondent Nos.8 to 10 erected a wooden buddy shop on the side of the said ring well in the R & B road margin and which is causing inconvenience to the public and further, on 31.08.2018 during midnight, the respondent Nos.8 to 10 further encroached the road margin and established an electric bore well for water servicing centre to clean vehicles i.e., cars, tractors, autos etc., without obtaining permission from the competent authority and without following law under WALTA Act, 2005. Though, an objection was raised by the villagers, the respondent Nos.8 to 10 abused the public and declared that they can report to whomsoever concern.

4. Due to the establishment of water servicing centre near the ring well, the oil and grease is getting mixed with the water, because of which the ring water is not fit either for drinking or any other purpose. The villagers submitted Representation, dated 06.09.2018 addressing to the respondent No.2 who in turn, vide proceedings dated 29.09.2018 have issued directions to respondent Nos.3 and 6 to take necessary action. Thereafter, the respondent No.6 conducted a detailed survey of the above encroachment with the help of Mandal Deputy

Surveyor, Uppalaguptam along with Village Revenue Officer, Gollavilli and Mandal Revenue Inspector, Uppalaguptam and submitted Enquiry Report, stating that the respondent Nos.8 to 10 have encroached an extent of Ac.0.12 cents by establishing water service centre in Survey No.67 of Gollavilli village, which is classified as a road poramboke and directed the R & B Department to take necessary action for eviction of the objectionable encroachment. The respondent No.5 addressed a letter to the Panchayat Secretary, Gollavilli village on 25.10.2018 and directed to take necessary action for removal as per Panchayat Raj Act. The official respondents intentionally shifted their responsibility from one department to another department without taking stringent action by following procedure as contemplated under Andhra Pradesh Land Encroachment Act, 1908 or Andhra Pradesh Gram Panchayat Act, 1995.

5. The case of the petitioner is that the respondent Nos.1 to 7 have to protect the interest of the public by protecting the properties of government sites and lands by following due process of law and as the respondents have failed to do, the petitioners have filed this present writ petition.

6. During hearing, learned counsel for the petitioners has reiterated the facts mentioned in the writ petition and further requested to pass appropriate orders.

7. Learned Government Pleader for R & B on oral instructions has submitted that the respondent Nos.8 to 10 did not encroach any extent of land as alleged by the petitioners. However, he submitted that if, survey is conducted, the entire issue will be resolved.

8. In view of the same, this Court feels it appropriate to dispose of this writ petition with the following directions:

- i. The respondent Nos.4, 5 and 7, with the assistance of the Revenue Department, shall conduct a survey to demarcate the unauthorized constructions i.e., Water Servicing Centre erected adjacent to the ring well in Survey No.67 of R & B road margin of Gollavilli Village, Uppalaguptam Mandal, East Godavari District. This survey shall be conducted in the presence of the petitioners or their representatives.
- ii. For the purpose of enabling these persons to be present at the time of the survey, notices shall be given to the petitioners.
- iii. After the survey is conducted, if it is found, that the respondent Nos.8 to 10 have encroached

the adjacent land in the above said survey, it would be open to the respondent Nos.2 to 7 to take appropriate action in accordance with law. This survey shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

iv. Till such survey is completed, the respondent Nos.8 to 10 shall not carry any work in the subject land, without following due process of law.

9. Accordingly, with the above directions, this writ petition is disposed of. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

V. SUJATHA, J

Date: 01.03.2023.

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