

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 4118 OF 2019



Between:

1. Nandika Srinivas, S/o. Arjanna, age 45 years, R/o.Gollavilli Village, Uppalaguptam Mandal, East Godavari District, Andhra Pradesh State
2. Madakam Kasulamma, W/o N. Srinivas, age 40 years, Gollavilli Village, Uppalaguptam Mandal, East Godavari District, Andhra Pradesh State.

...PETITIONERS

AND

1. The State of AP, Rep.by its Principal Secretary, Roads and Buildings Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The District Collector, East Godavari District at Kakinada.
3. The Revenue Divisional Officer, , Amalapuram, East Godavari District, Andhra Pradesh State
4. The Assistant Executive Engineer, R and B Circle, Amalapuram, East Godavari District.
5. The Assistant Engineer, R and B Section, Uppalaguptham, East Godavari District.
6. The Tahsildar, Uppalaguptham Mandal, East Godavari District.
7. The Gollavilli Gram Panchayat, , Gollavilli Village, Uppalaguptham Mandal, East Godavari District, rep.by its Panchayat Secretary.
8. Undrajarapu Siva Krishna, S/o. Venkata Rao, R/o. Serva Nagar, Gollavilli Village, Uppalaguptam Mandal, East Godavari District, Andhra Pradesh State.
9. Undrajarapu Venkata Rao, R/o. Serva Nagar, Gollavilli Village, Uppalaguptam Mandal, East Godavari District, Andhra Pradesh State.
10. Undrajarapu Lakshmi, , W/o. Venkata Rao, R/o. Serva Nagar, Gollavilli Village, Uppalaguptam Mandal, East Godavari District, Andhra Pradesh State.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased 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 Sy.No. 67 of R and 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 A.P. Gram Panchayat Act and also violations of Articles 14, 19 and 21 of the Constitution of India.

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents 2 to 7 to implement the proceedings Ref. No.B/982/2018, Dt. 15.10.2018 issued by the 6th respondent addressed to the 5th respondent and Letter Dt. 25.10.2018 of the 5th respondent addressed to the 7th respondent by directing the respondents 2 to 8 to conduct enquiry on the complaint submitted by the writ petitioners and other villagers on 31.12.2018, pending disposal of the writ petition.

Counsel for the Petitioner: SRI. DASARI S V V S V PRASAD

Counsel for the Respondents 1,4&5: GP FOR ROADS & BUILDINGS

Counsel for the Respondents 2,3&6: GP FOR REVENUE

Counsel for the Respondent 7: SRI N. SRIHARI, SC FOR GRAM PANCHAYAT

Counsel for the Respondents 8 to 10: SRI G.L. NAGESWARA RAO

The Court made the following: ORDER

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.

SD/- U. SRIDEVI
ASSISTANT REGISTRAR

//TRUE COPY//

U. Sridevi
SECTION OFFICER

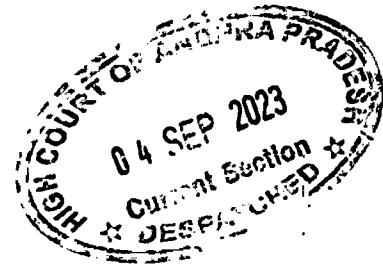
To,

1. The Principal Secretary, Roads and Buildings Department, State of AP, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The District Collector, East Godavari District at Kakinada.
3. The Revenue Divisional Officer, Amalapuram, East Godavari District, Andhra Pradesh State
4. The Assistant Executive Engineer, R and B Circle, Amalapuram, East Godavari District.
5. The Assistant Engineer, R and B Section, Uppalaguptham, East Godavari District.
6. The Tahsildar, Uppalaguptham Mandal, East Godavari District.
7. The Gollavilli Gram Panchayat, , Gollavilli Village, Uppalaguptham Mandal, East Godavari District, rep.by its Panchayat Secretary.
8. One CC to Sri. Dasari S V V S V Prasad Advocate [OPUC]
9. Two CCs to GP for Roads & Buildings, High Court of Andhra Pradesh. [OUT]
10. Two CCs to GP for Revenue, High Court of Andhra Pradesh. [OUT]
11. One CC to Sri. N. Srihari, SC for Gram Panchayat [OPUC]
12. One CC to Sri. G.L. Nageswara Rao Advocate [OPUC]
13. Two CD Copies

Asst. Sdkr

HIGH COURT

DATED:01/03/2023



ORDER

WP.No.4118 of 2019

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S.M.A
31/07

DISPOSING THE WP WITHOUT COSTS