

**THE HON'BLE SRI JUSTICE M.GANGA RAO**

**Writ Petition No. 21301 of 2020**

**ORDER:**

This writ petition is filed to issue a Writ of Mandamus declaring the action of the respondents 2 to 5 in erecting electrical poles, transformer and electrical lines in Sy.Nos.1119 & 1120 of Pothabolu Village, Madanapalle Mandal, Chittoor District in an undivided joint family agricultural property, in spite of obtaining a preliminary decree from a competent Civil Court and pending final decree, at the behest and influence of 6<sup>th</sup> respondent, as illegal and arbitrary and consequently to direct the respondents 2 to 5 to remove the new electrical service lines, poles and transformer erected in the land situated in Sy.Nos.1119 & 1120 of Pothabolu Village, Madanapalle Mandal, Chittoor District.

2. The case of the petitioner is that one of her brothers i.e., 6<sup>th</sup> respondent filed O.S.No.16 of 1996 on the file of the II Additional District Judge, Madanapalle, Chittoor District against her and other family members, seeking partition of various joint family properties, wherein the II Additional District Judge passed preliminary decree on 18.08.2004. Pursuant to the said preliminary decree, I.A.No.515 of 2007 was filed for passing of final decree, wherein the II Additional District Judge appointed an advocate-commissioner for division and partition of suit schedule properties. The

advocate-commissioner, after visiting the suit properties, noted the same with the aid of Mandal Surveyor and filed a detailed report before the Court. Pending suit for passing final decree, the 6<sup>th</sup> respondent made an application on 25.07.2020 to the 5<sup>th</sup> respondent, seeking for erection and installation of new electricity service connection i.e., electrical poles, service lines and installation of transformer in an undivided joint family properties. Then, she approached the respondents 4 and 5 and submitted the written objections on 27.07.2020, requesting not to entertain any application in view of pendency of final decree before the competent Civil Court. But, the 6<sup>th</sup> respondent, on the advice of 5<sup>th</sup> respondent, filed W.P.No.14458 of 2020, without adding the petitioner as a party respondent, wherein this Court by order dated 27.08.2020 passed interim order directing the 4<sup>th</sup> respondent to give reply to the representation dated 25.07.2020. But, the 5<sup>th</sup> respondent at the behest of 6<sup>th</sup> respondent, without issuing any notice to the petitioner, addressed a letter to the Station House Officer, Madanapalle Taluk Police Station seeking to provide police protection to the department officers and contract workers for erection of electrical lines in the undivided joint family properties. Though the petitioner and other family members objected and resisted, the 5<sup>th</sup> respondent highhandedly started erecting service lines, poles and transformer in the undivided joint family properties and created multiple litigations among the

family members. Assailing the said arbitrary action of the 5<sup>th</sup> respondent, this writ petition is filed.

3. Both the learned counsel agreed for disposal of the writ petition at the stage of admission.

4. Learned counsel for the petitioner submits that the petitioner and other family members have obtained the preliminary decree and judgment in O.S.No.16 of 1996 on the file of the Additional District Judge, Madanapalle. The petitioner is in possession and enjoyment of the subject land, basing on the proposed allotment of land by the advocate-commissioner. Though the 6<sup>th</sup> respondent has no right or title over the suit lands, he obtained interim order dated 27.08.2020 in W.P.No.14458 of 2020 and basing on the same, the 5<sup>th</sup> respondent started erection of poles, service lines and transformer in the undivided joint family property, pending adjudication of the final decree. The petitioner also complained against the 5<sup>th</sup> respondent to the respondents 2 to 5, requesting to take action for violating the rules and regulations for giving service connection, but no action has been taken so far. The action of the respondents 2 to 5 in erecting electric transformer, electric wires and poles in spite of placing judicial orders, is illegal and contrary to the procedure contemplated under the APERC regulations.

5. In the facts and circumstances of the case and considering the submissions of the learned counsel, and on

perusal of the record, this Court found that the relief prayed could not be granted without conducting enquiry. Hence, this Court, in the interest of justice, felt it appropriate to dispose of the writ petition giving liberty to the petitioner to avail the statutory remedy before the District Magistrate under the provisions of Section 17 of the Indian Telegraph Act, 1885 r/w Section 164 of the Electricity Act, 2003 for redressal of her grievance to remove the electrical poles, transformer and electrical lines which were already erected in the land situated in Sy.Nos.1119 & 1120 of Pothabolu Village, Madanapalle Mandal, Chittoor District.

6. Accordingly, the Writ Petition is disposed of. No order as to costs.

7. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

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**JUSTICE M.GANGA RAO**

19-11-2020  
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