

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

TUESDAY, THE TENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION NO: 25227 OF 2023

Between:

1. C. Lakshmi Reddy, S/o. C. Narapu Reddy, aged about 72 years, R/o. D.No.42/347-23-2, RTC Bus Stand Road, YSR Kadapa District.
2. C. Madhusudhan Reddy, S/o. C. Lakshmi Reddy, aged about 40 years, R/o. D.No.42/347-23-2, RTC Bus Stand Road, YSR Kadapa District.

...PETITIONERS

AND

1. The Tahsildar, Kadapa Mandal, Kadapa, YSR Kadapa District.
2. The State of Andhra Pradesh, rep. by its Principal Secretary, Revenue Department, Secretariat, Velagapudi, Amaravati, Guntur District.
3. The Kadapa Municipal Corporation, rep. by its Commissioner, YSR Kadapa District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the respondents 1 and 3 in resorting to highhanded demolition of the structural properties of the petitioners i.e., 42/347-23-2 and 42/347-15-2 situated in Sy.Nos.760-5 and 762/1 of Chinna Chowk, Kadapa town, YSR Kadapa District on the allegation that the construction of the buildings was made on the panta kaluva situated in Sy.Nos.762/1 and 760-5 of Kadapa town, YSR Kadapa District, without passing final orders on the show cause notices that were issued by respondents 1 and 3, is arbitrary and illegal and direct the respondents to forbear from taking up any activity of demolition of the structural building properties of the petitioners as mentioned above without passing final orders on the show cause notices that were issued by respondents 1 and 3 and without affording an opportunity of hearing to the petitioners.

IA NO: 1 OF 2023

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents not to demolish any part of the building properties of the petitioners i.e., 42/347-23-2 and 42/347-15-2 situated in Sy.Nos.760-5 and 762/1 of Chinna Chowk, Kadapa town, YSR Kadapa District without passing any final orders on the show cause notices that were issued by the respondents 1 and 3 to which the petitioners have submitted explanations, pending disposal of the writ petition.

Counsel for the Petitioners : M/s. BHARADWAJ ASSOCIATES

Counsel for the Respondent Nos.1 & 2 : GP FOR REVENUE

**Counsel for the Respondent No.3 : SRI N. RANGA REDDY,
SC FOR MUNICIPALITY**

The Court made the following: ORDER

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION NO.25227 of 2023

Between:-

C.Lakshmi Reddy & another ... Petitioners

And

The Tahsildar, Kadapa Mandal, Kadapa,
YSR Kadapa District & 2 others ... Respondents

Counsel for the Petitioners : M/s. Bharadwaj Associates

Counsel for the Respondents : Learned Government Pleader
for Revenue

Mr.N.Ranga Reddy

ORDER:

Heard Mr. Vedula Venkata Ramana, Learned Senior Counsel for the petitioners. Also heard the Learned Assistant Government Pleader for Revenue representing the respondent Nos.1 & 2 and the Learned Standing Counsel representing the 3rd respondent-Corporation.

2. The present Writ Petition is filed *inter alia* seeking to declare the action of the respondent Nos.1 and 3 in resorting to initiate action of demolition of the subject matter properties on the premise that construction of the building was made on '*Panta Kaluva*' situated in Sy.Nos.762/1 & 760/5 of Kadapa Town, without passing final orders on the show cause notices, as arbitrary, illegal etc., and for consequential directions.

3. The Learned Senior Counsel for the petitioner *inter alia* submits that pursuant to the notice issued by the 3rd respondent under Section 7 of the A.P. Land Encroachment Act, 1905 dated 29.8.2023 the petitioner submitted his explanations dated 4.9.2023 and 11.9.2023. In the meanwhile, another show cause notice was issued on 14.9.2023 by the 3rd respondent in respect of the very same subject matter property. Be that as it may. The Learned Senior Counsel submits that even before the explanation of the petitioner is considered and appropriate orders are passed thereon, steps are being taken to dispossess/demolish the structures in respect of the subject matter property, in a highhanded manner and therefore the petitioner is constrained to file the present Writ Petition. The Learned Senior Counsel also submits that if the respondents resort to any coercive action without passing orders on the petitioner's explanation, the petitioner's valuable rights would be seriously affected.

4. The Learned Standing Counsel, on the other hand, on the basis of the written instructions submitted that the 3rd respondent is not taking any coercive action as alleged by the petitioner in the Writ Petition. In the instructions, it is also stated that the respondents would follow the due process of Law.

5. The Learned Assistant Government Pleader for Revenue, who made his submissions on the basis of the written instructions dated 27.9.2023 received from the 1st respondent submits that the petitioner without any cause of action approached this Court. Be that as it may. As seen from the written instructions dated 27.9.2023, which are placed for perusal of this Court, it would appear that the matter is under examination by the 1st respondent and no order has been passed so far. Further, the relevant portion of the instructions reads as follows:-

"In view of the above it is submitted that the petitioner was clearly given opportunity by issuing notices under Section 7 of Land Encroachment Act vide this office Ref.No.B1/1214/2023 Dt.29.08.2023 and further necessary action will be taken by following due process of law under Land Encroachment Act."

6. In the light of the above stated position, the Writ Petition is disposed of, with a direction to the respondents not to take any coercive action in respect of the subject matter property, without passing any orders by considering the petitioner's objections/explanation to the notice dated 29.8.2023 or serving the same on the petitioners. There shall be no order as to costs. As a sequel, pending applications, if any, shall stand closed.

SD/- B. CHITTI JOSEPH
ASSISTANT REGISTRAR

//TRUE COPY//

for SECTION OFFICER

To,

1. The Tahsildar, Kadapa Mandal, Kadapa, YSR Kadapa District.
2. The Principal Secretary, Revenue Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati, Guntur District.
3. The Commissioner, Kadapa Municipal Corporation, YSR Kadapa District.
4. One CC to M/s. Bharadwaj Associates, Advocate [OPUC]
5. Two CCs to GP for Revenue, High Court of Andhra Pradesh. [OUT]
6. One CC to Sri N. Ranga Reddy, SC for Municipality (OPUC)
7. Three C.D. Copies

Cnr

HIGH COURT

DATED:10/10/2023

ORDER

WP.No.25227 of 2023

10 copies
TP
19/10/2023

**DISPOSING OF THE W.P.
WITHOUT COSTS**

