

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

FRIDAY, THE TWENTY SECOND DAY OF NOVEMBER,

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE G.NARENDAR

AND

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WA NO: 938 OF 2024

Writ Appeal under Clause 15 of the Letters Patent, is filed against the order made in WP.No.26062 of 2024, dated 15.11.2024, on the file of the High Court

Between:

Mamidi Anjaneyulu, S/o Mamidi Adinarayana Murthy, Aged about 62 years, R/o 7-212/2, Bus Stand Center, Elurupadu, West Godavari District, Andhra Pradesh-534236

...Petitioner

AND

1. The State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department, Secretariat Buildings Velagapudi, Amaravathi, Guntur District.
2. The Commissioner, Excise and Prohibition Department, Secretariat Buildings, Velagapudi, Amaravathi.
3. The District Collector, West Godavari District, Andhra Pradesh-534236.
4. The Excise Superintendent, West Godavari District, Andhra Pradesh-534236.
5. The Excise Circle Inspector, Aakiveedu Range, West Godavari District, Andhra Pradesh-534236.

6. The Sub-Inspector, Excise Department, West Godavari Range, Andhra Pradesh- 534236.
7. The Station House Officer, Kalla Police Station, Andhra Pradesh- 534236.
8. Panchayat Secretary, Grade -I Secreatary Gram Panchayat, Elurupadu, West Godavari District, Andhra Pradesh- 534236.
9. Pacchigolla Seetharamayya, S/O Sree Venkata Subba Rao, Aged about 68 years, Occupation. Business, R/O H.No. 190/IB, Gandhi Beizar, Eluru padu. West Godavari District, Andhra Pradesh- 534236.
10. Pacchigolla Savithi Venkata Ramana Rao, S/O Venkata Subba Rao Aged about 62 years. Occupation. Business, R/O- H.No. 9-34, Gandhi Bazar, Eluru Padu, West Godavari District, Andhra Pradesh -534236.
11. Sanka Phanindra Kumar, S/O Sai Baba Gupta, Aged about 35 years, D.No.9-47/1, Kalla Mandalam, Elurupadu, West Godavari District, Andhra Pradesh - 53426.
12. Sanka Sai Baba Gupta, S/O Krishna Murthy, Aged about 62 years. Occupation- Gold business, D.No.9-47/1, Kalla Mandalam, Elurupadu, West Godavari District, Andhra Pradesh - 53426.
13. Pasupuleti Bhanu Sree, Urvasi Wines Shop No 17, Serial No. 17, Kalla Mandalam, Elurupadu, West Godavari District, Andhra Pradesh- 53426.
14. Kanchi Ram Charan, S/o Ravi Kishore, Urvasi Wines, Shop No 17, Serial No. 17 Kalla Mandalam, Elurupadu, West Godavari District, Andhra Pradesh- 53426

...Respondents

IA No.1 OF 2024

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 more specifically Respondent No.3 to consider the Representation of the Petitioner or Appellant herein dated 05.11.2024 and forthwith direct all competent authorities specifically Respondent No.4 and Respondent No.5 herein to stall the business operations of the retail liquor shop titled M/s URWASI WINES located at Shop No.17, Serial No.17, Kalla Mandalam, Elurupadu, West Godavari District, Andhra Pradesh 53426 owned and operated by the Respondent No.13 and Respondent No.14 herein in the premises of Respondent No.9 and Respondent No.10, pending disposal of WA No.938 of 2024, on the file of the High Court.

The Appeal coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Umesh Chandra.P.V.G, Advocate for the Petitioner and GP for Revenue for the Respondent Nos.1 & 3 and GP for Excise for the Respondent Nos.2, 4 & 5 and GP for Home for the Respondent Nos.6 & 7 and Sri Y.Koteswara Rao, Standing Counsel for the Respondent No.8, the Court made the following;

ORDER:

“Heard learned senior counsel for the appellant and learned counsel for the respondent and the learned Government Pleaders for Prohibition & Excise and Finance Departments.

Having heard the learned counsel, the entire gamut of the argument appears to be revolved around the issue of distance from the highway i.e. in terms of the provisions of Rule 24 of the A.P. Excise (Grant of License of selling by shop and Conditions of License) Rules, 2024 (for short the Rules, 2024) which mandate that

the license cannot be granted to an applicant in the event the shop is within the prohibited distance of 220 meters from the National or State Highway. The distance stipulated is in terms of the Judgment of the Hon'ble Apex Court in between The State of Tamilnadu vs. K.Balu (reported in 2017 6 SCC 715).

The counsel for the appellant has placed on record certain photographs to demonstrate that the shop is within the prohibited distance. The same is disputed. Apparently, the land owner who has leased the land to the respondent and the instant appellant are neighbours.

In that view of the matter, we have called for the Government Pleader to place on record, the survey report. We have perused the survey report dated 21.11.2024. The report does not refer to any exercise having been conducted for ascertaining the distance from the Highway to the shop in question. In that view of the matter the report appears to be partial and has not covered all the aspects which are required to be looked into by the competent authority.

Having heard the counsel, both the counsel consented that there may be a direction directing the Mandal Surveyor of the concerned revenue Mandal to conduct survey with regard to the distance from the said shop to the Highway, in the presence of the representatives of the parties and the parties also.

Learned senior counsel would submit that the counsel for the appellant Sri P.V.G.Umesh Chandra would be present and represent the appellant and learned counsel Sri Hemanth would be present at the time of survey, on behalf of the licensee. The Mandal Surveyor concerned is directed to carry out survey on 28.11.2024 and submit a report to this Court on 03.12.2024. All the parties, including counsel, shall assemble at the location i.e. D.No.9-119/1, Near Elurupadu

Village, Kalla Mandal, West Godavari District, A.P. by 10.00am on 28.11.2024. All the parties including the counsel who have been nominated and also Assistant Prohibition and Excise Superintendent, West Godavari, Bhimavaram shall also remain present at the location during the entire exercise.

For report, list on 03.12.2024.”

Sd/- K. J. RAJA BABU
AS ASSISTANT REGISTRAR

//TRUE COPY//

For AS SECTION OFFICER

To,

1. The Principal Secretary, State of Andhra Pradesh, Revenue Department, Secretariat Buildings Velagapudi, Amaravathi, Guntur District. (by **Special Messenger**)
2. The Commissioner, Excise and Prohibition Department, Secretariat Buildings, Velagapudi, Amaravathi.
3. The District Collector, West Godavari District, Andhra Pradesh- 534236.
4. The Excise Superintendent, West Godavari District, Andhra Pradesh-534236.
5. The Excise Circle Inspector, Aakiveedu Range, West Godavari District, Andhra Pradesh-534236.
6. The Sub-Inspector, Excise Department, West Godavari Range, Andhra Pradesh- 534236.
7. The Station House Officer, Kalla Police Station, Andhra Pradesh- 534236.
8. Panchayat Secretary, Grade -I Secretary Gram Panchayat, Elurupadu, West Godavari District, Andhra Pradesh- 534236.

9. Pacchigolla Seetharamayya, S/O Sree Venkata Subba Rao, R/o H.No. 190/IB, Gandhi Beizar, Eluru padu. West Godavari District, Andhra Pradesh- 534236.
10. Pacchigolla Savithi Venkata Ramana Rao, S/o Venkata Subba Rao, Business, R/o- H.No. 9-34, Gandhi Bazar, Eluru Padu, West Godavari District, Andhra Pradesh -534236.
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14. Kanchi Ram Charan, S/o Ravi Kishore, Urvasi Wines, Shop No.17, Serial No. 17 Kalla Mandalam, Elurupadu, West Godavari District, Andhra Pradesh- 53426
15. The Mandal Surveyar, Kalla Mandal, West Godavari District
16. The Assistant Prohibition and Excise Superintendent, Bhimavaram, West Godavari District. (Addressee Nos.2 to 16 by **SPEED POST**)
17. One CC to Sri. Umesh Chandra.P.V.G, Advocate [OPUC]
18. Two CCs to GP for Revenue, High Court of AP [OUT]
19. Two CCs to GP for Excise, High Court of AP [OUT]
20. One CC to Sri Y.Koteswara Rao, Standing Counsel [OPUC]
21. One CC to Sri Hemanth , Advocate [OPUC]
22. Two spare copies



HIGH COURT

GN,J

&

KM,J

DATED:22/11/2024

LIST ON 03.12.2024

ORDER

WA.No.938 of 2024

DIRECTION

