

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

FRIDAY, THE SECOND DAY OF FEBRUARY,
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA
WRIT PETITION NO: 2447 OF 2024



Between:

1. Yakasiri Ramaiah, S/o. Sankaraiah, Aged about 54 years, Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
2. Bathina Sundaraiah, S/o. Bathina Ankaiah, aged about 70 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
3. Dasu Chuchu Krishnaiah, S/o. Bhupaiah, aged about 34 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
4. Yakasiri Suneel Kumar, S/o. Yakasiri Venu Gopal, aged about 35 years, Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
5. Yakasiri Adhi Lakshmi, W/o. Yakasiri Ramaiah, Aged about 51 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
6. Chemirithi venkateswarlu, S/o. Chemirithi Papaiah, Aged about 39 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
7. Yakasiri Mohini Supriya, D/o. Yakasiri Ramaiah, aged about 27 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
8. Yakasiri Mohan Krishna, S/o. Yakasiri Venu Gopal, aged about 29 years, Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
9. Yakasiri Venu Gopal, S/o. Yakasiri Sankaraiah, aged about 60 years, Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.

...Petitioners

AND

1. The State of Andhra Pradesh, Rep by Principal Secretary (Revenue Department), Secretariat Buildings, Velagapudi, Guntur District.
2. The State of Andhra Pradesh, Rep by Principal Secretary (irrigation Department), Secretariat Buildings, Velagapudi, Guntur District.
3. The District Collector, Tirupathi, Tirupathi District.
4. The Revenue Divisional Officer, Sullurupeta Revenue Division, Sullurupeta, Tirupathi District.
5. The Tahsildar, Naidupeta Mandal, Tirupathi District.
6. The Thimmaji Kandriga Grama Panchayati, Naidupeta Mandal, Tirupathi District, Rep by its Panchayat Secretary.

...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 or order or direction more particularly one in the nature of WRIT OF MANDAMUS Declaring the action of the Respondents Authorities who has failed to consider the Spandana Application Vide Application No.TPT202306122316 and TPT202401084682 of the Petitioner dated 12.06.2023 dated 08.01.2024, in respect of protecting the Swarnamukh River lands from encroachments and making illegal constructions in survey No.76-A to an extent Ac 138.25 cents, situated at near Thimmaji Kandriga Village, Naidupet Mandal, SPSR Nellore District, is illegal arbitrary and contrary to law and consequently direct the respondents to forthwith take

necessary steps to remove the encroachments in survey No. 76- A to an extent Ac 138.25 cents, situated at near Thimmaji Kandriga Village, Naidupet Mandal, SPSR Nellore District., and protect the aforementioned Swarnamukh River lands and preserve the same;

IA NO: 1 OF 2024:

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 to consider the representation of the petitioners Spandana Application Vide Application No.TPT202306122316 and TPT202401084682 dated 12.06.2023, 08.01.2024, and forthwith take necessary steps by removing the encroachments in survey No. 76- A to an extent Ac 138.25 cents, situated at near Thimmaji Kandriga Village, Naidupet Mandal, SPSR Nellore District., and protect the aforementioned Swarnamukh River lands and preserve the same, pending disposal of WP.No.2447 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Naga Raju Kollati, Advocate for the Petitioner and GP for Revenue for the Respondent Nos.1 & 3 to 5 and GP for Irrigation for the Respondent No.2 and Sri G.Venkata Reddy, Standing Counsel for the Respondent No.6, the Court made the following;

ORDER:

“Heard learned counsel for the petitioners, learned Government Pleader for Revenue, learned Government Pleader for Irrigation and learned Standing Counsel for Respondent No.6.

The grievance of the petitioners in filing this Writ Petition is that the Respondents did not consider the Spandana application Nos. TPT20230612216 and TPT202401084682 submitted by the petitioner(s) dated 12.06.2023 and 08.01.2024 respectively for protecting the Swarnamukhi River lands from encroachments and illegal constructions in Sy.No.76-A to an extent of Acs.138.25 cents situated near Thimmaji Kandriga Village, Naidupeta Mandal, SPSR Nellore District.

At the time of admission, the learned Government Pleader for Revenue submitted written instructions dated 31.01.2024 issued by Respondent No.5 / the Tahsildar, Naidupeta Mandal, wherein it is stated that an extent of Acs.138.25 cents in Sy.No.76-A of Thimmaji Kandriga Village, Naidupeta Mandal is classified as “Swarnamukhi River poramboke” as per the village Revenue record. It is further stated that on the representations filed by the petitioners through Spandana dated 12.06.2023, a detailed report has been submitted to the Respondent No.3 / District Collector, Tirupathi and it is noticed that though one

person tried to construct a house, he immediately stopped the construction work and as of now nobody have encroached nor making alleged construction of houses in River Poramboke.

Learned counsel for the petitioners submits that the encroachments as narrated are not removed from Sy.No.76-A in an extent of Ac.138.25 cents and the Respondent Authorities have failed to consider the petitioners Spandana Applications dated 12.06.2023 and 08.01.2024.

Having heard the respective counsels and in the considered opinion of this Court, it is appropriate and proper to appoint an Advocate Commissioner to bring the real facts before the Court. For which he has to note down the physical features of the disputed land for proper adjudication of this case, in the interest of justice.

Learned counsel for the petitioners and learned counsel appearing for Respondents have agreed for appointment of an Advocate Commissioner and gave an undertaking that, the petitioners will bear all the expenses and towards the Advocate Commissioner fee and other incidental expenses, if any.

Accordingly, the Advocate Commissioner is appointed with the following directions:

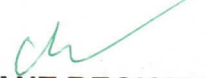
- (i) Mrs. Sudeepthi Potluri, Advocate (21888), Plot.No.206, Sri Swarna Residency, Sri Ram Nagar, Road No.1, Behind Kennedy High School, Kanur, Vijayawada (Mobile:90308 11999) is appointed as an Advocate Commissioner to note down whether the land in Sy.No.76-A to an extent of Ac.138.25 cents, situated near Thimmaji Kandriga Village, Naidupet Mandal, SPSR Nellore District is still intact without any encroachments as alleged or not?;
- (ii) Respondent No.5 - The Tahsildar, Naidupeta Mandal, Tirupathi District is directed to provide assistance by deputing the Mandal Surveyor for this purpose to assist the learned Advocate Commissioner and further directed Respondent No.2 to depute concerned Executive Engineer to assist and identify the subject land.

- (iii) Learned Advocate Commissioner shall execute this warrant on or before 10.03.2024, after giving prior notice to the petitioners and respondents.
- (iv) Learned Advocate Commissioner shall submit her report before the next date of hearing;
- (v) Learned Advocate Commissioner's fee is fixed at Rs.30,000/- (Rupees Thirty Thousands only) to be paid by the petitioners;
- (vi) The petitioners shall provide a Innova Crysta car for comfortable transportation of the learned Advocate Commissioner on the date of executing warrant.
- (vii) The petitioners have to bear all other incidental expenses to be incurred by the learned Advocate Commissioner.
- (viii) Registry is directed to serve the copy of this order to the learned Advocate Commissioner.

Post the matter on 12.03.2024."

Sd/- G.Hela Naidu
ASSISTANT REGISTRAR

//TRUE COPY//


For ASSISTANT REGISTRAR

To,

1. The Principal Secretary (Revenue Department), State of Andhra Pradesh, Secretariat Buildings, Velagapudi, Guntur District.
2. The Principal Secretary (Irrigation Department), State of Andhra Pradesh, Secretariat Buildings, Velagapudi, Guntur District.
3. The District Collector, Tirupathi, Tirupathi District.
4. The Revenue Divisional Officer, Sullurupeta Revenue Division, Sullurupeta, Tirupathi District.
5. The Tahsildar, Naidupeta Mandal, Tirupathi District.
6. The Panchayat Secretary, Thimmagi Kandriga Grama Panchayati, Naidupeta Mandal, Tirupathi District.
7. Mrs.Sudeepthi Potluri, Advocate Commissioner Plot.No.206, Sri Swarna Residency, Sri Ram Nagar, Road No.1, Behind Kennedy High School, Kanur, Vijayawada (Addressee Nos.1 to 7 by RPAD)
8. One CC to Sri. Naga Raju Kollati, Advocate [OPUC]
9. Two CCs to GP for Revenue, High Court of Andhra Pradesh. [OUT]
10. Two CCs to GP for Irrigation, High Court of AP [OUT]
11. One CC to Sri G.Venkata Reddy, Standing Counsel [OPUC]
12. One spare copy

MM

HIGH COURT

NV,J

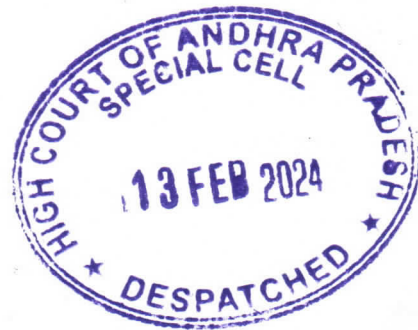
DATED:02/02/2024

NOTE: POST THE MATTER ON 12.03.2024

ORDER

WP.No.2447 of 2024

DIRECTION



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
FRIDAY, THE SECOND DAY OF FEBRUARY,
TWO THOUSAND AND TWENTY FOUR
:PRESENT:
THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA
WRIT PETITION NO: 2447 OF 2024**



Between:

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2. Bathina Sundaraiah, S/o. Bathina Ankaiah, aged about 70 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
3. Dasu Chuchu Krishnaiah, S/o. Bhupaiah, aged about 34 years, R/o. Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
4. Yakasiri Suneel Kumar, S/o. Yakasiri Venu Gopal, aged about 35 years, Thimmaji Kandriga, Naidu peta Mandal, SPSR Nellore District, Nellore.
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1. The State of Andhra Pradesh, Rep by Principal Secretary (Revenue Department), Secretariat Buildings, Velagapudi, Guntur District.
2. The State of Andhra Pradesh, Rep by Principal Secretary (Irrigation Department), Secretariat Buildings, Velagapudi, Guntur District.
3. The District Collector, Tirupathi, Tirupathi District.
4. The Revenue Divisional Officer, Sullurupeta Revenue Division, Sullurupeta, Tirupathi District.
5. The Tahsildar, Naidupeta Mandal, Tirupathi District.
6. The Thimmaji Kandriga Grama Panchayati, Naidupeta Mandal, Tirupathi District, Rep by its Panchayat Secretary.

...Respondents

Whereas 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 or order or direction more particularly one in the nature of WRIT OF MANDAMUS Declaring the action of the Respondents Authorities who has failed to consider the Spandana Application Vide Application No.TPT202306122316 and TPT202401084682 of the Petitioner dated 12.06.2023 dated 08.01.2024, in respect of protecting the Swarnamukh River lands from encroachments and making illegal constructions in survey No.76-A to an extent Ac 138.25 cents, situated at near Thimmaji Kandriga Village, Naidupeta Mandal, SPSR Nellore District, is illegal

arbitrary and contrary to law and consequently direct the respondents to forthwith take necessary steps to remove the encroachments in survey No. 76- A to an extent Ac 138.25 cents, situated at near Thimmaji Kandriga Village, Naidupet Mandal, SPSR Nellore District., and protect the aforementioned Swarnamukh River lands and preserve the same;

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Whereas the Court, upon perusing the Petition and the Affidavit filed in support thereof and upon hearing the arguments of Sri Naga Raju Kollati, Advocate for the Petitioner and GP for Revenue for the Respondent Nos.1 & 3 to 5 and GP for Irrigation for the Respondent No.2 and Sri G.Venkata Reddy, Standing Counsel for the Respondent No.6, appointed Mrs.Sudeepthi Potluri, as Advocate Commissioner not down and to submit report before this Court on the next date of hearing.

Therefore You Viz;

Mrs.Sudeepthi Potluri, learned counsel, High Court of Andhra Pradesh.

are hereby appointed as an Advocate Commissioner to note down whether the land in Sy.No.76-A to an extent of Ac.138.25 cents, situated near Thimmaji Kandriga Village, Naidupet Mandal, SPSR Nellore District is still intact without any encroachments as alleged or not and to file report before this Court on or before 12.03.2024.

You are informed that the Hon'ble Court directed Respondent No.5 - The Tahsildar, Naidupeta Mandal, Tirupathi District to provide assistance by deputing the Mandal Surveyor for this purpose and further directed Respondent No.2 to depute concerned Executive Engineer to assist and identify the subject land.

Your are directed to issue prior notice to the petitioners and respondents before execution of warrant on or before 10.03.2024.

You are further informed that your fee for this purpose is fixed at Rs.30,000/- (Rupees Twenty Thousand only) shall be borne by the petitioners, and they shall provide Innova Crysta Car for your comfortable transportation on the date of executing warrant and petitioners have to bear all other incidental expenses to be incurred by you.

You are directed to file report positively, on or before 12.03.2024.

//TRUE COPY//

Sd/- G. HELA NAIDU
AS. ASSISTANT REGISTRAR

SECTION OFFICER
OFFICER

To

1. Mrs.Sudeepthi Potluri, Advocate Commissioner. High Court of Andhra Pradesh (BY SPECIAL MESSENGER- along with copy of petition & affidavit and all material papers)
2. One Spare copy.

MM

HIGH COURT

NV,J

DATED: 02/02/2024

NOTE: POST THE MATTER ON 12.03.2024

ORDER

WP.No.2447 of 2024

APPOINTEMENT OF ADVOCATE COMMISSIONER

