

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

TUESDAY, THE SIXTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

IA No. 1 OF 2024

IN

WP NO: 2543 OF 2024



Between:

1. Jangam Suresh Babu, S/o. Vasudeva Rao, Aged about 45 years, R/o. Pottepalem, Nellore Rural Mandal, SPSR Nellore District.
2. Boyana Penchalaiah, S/o. Penchalaiah, Aged about 43 years, R/o. D.No.5-62, Pottepalem, Nellore Rural Mandal, SPSR Nellore District.
3. Nerella Venkataramanaiah, S/o. Nerella Penchalaiah, Aged about 40 years, R/o. Harijanawada, Pottepalem, Nellore Rural Mandal, SPSR Nellore District

...Petitioner(s)

(Petitioner in WP 2543 OF 2024
on the file of High Court)

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary, Irrigation Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The District Collector, SPSR Nellore District, Nellore.
3. The Superintending Engineer, Irrigation circle, Nellore, SPSR Nellore District.
4. The Executive Engineer, Water Resources Department, Nellore Central Division, Nellore, SPSR Nellore District.
5. The District Panchayat Officer, Panchayat Raj Department, SPSR Nellore District.
6. The Extension Officer, PR and RD, Mandal Prajaparishat, Nellore, SPSR Nellore District.
7. The Panchayat Secretary, Pottepalem Grampanchayat, Nellore Rural Mandal, SPSR Nellore District.

...Respondent(s)

(Respondents in-do-)

Counsel for the Petitioner : Sri C SUBODH

Counsel for the Respondent Nos. 1 to 4: GP FOR IRRI AND CAD (AP)

**Counsel for the Respondent Nos. 5 to 6 : GP FOR PANCHAYAT RAJ
DEPARTMENT**

Counsel for the Respondent No.7 : Sri G VENKAT REDDY

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 not to carry out any constructions in an extent of 100 Ankanams in Sy. No.27 of Pottepalem village, Nellore Rural Mandal, SPSR Nellore District by suspending the proceedings No.DB/ ATO/61M, dt. 24.01.2024 issued by the 4th respondent, Pending disposal of WP No. 2543 of 2024, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the

following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

ORDER

"Heard learned counsel for the petitioners and learned Government Pleader for Irrigation.

Learned counsel for the petitioners submits that the respondents are proceeding with the construction of following buildings: 1. Grama Sachivalayam Buildings, 2. Community Hall, 3. Raithu Barosa Kendram, 4. Health Clinic, 5. Bulk Milk Center in Sy.No.27 of Government Land belonging to Water Resources Department on Rear side of the Pennar River Bank in Pottepalem village, Nellore Rural Mandal, SPSR Nellore. He further submits that in view of the settled proposition of the law no constructions to be allowed in any place of water stream, water courses, tanks and river banks which were classified as part of conservation zone. He further reiterates that the 4th respondent while issuing NOC proceedings dated 24.01.2024, categorically admitted that the proposed constructions of the buildings as stated above, coming on rear side of the Penna River Bank at Pottepalem village, Nellore Rural Mandal and the terms and conditions mentioned therein are also confirming the subject construction is proposed at rear side of river bank of Penna River. As such, the subject construction cannot be allowed, in contrary to the principles laid down by the Hon'ble Apex Court and this Court.

On the other hand, learned Government Pleader for Irrigation furnished written instructions on 02.02.2024 from the very same authority i.e., the 4th respondent herein, who stated that based on the report of the Deputy Executive Engineer, irrigation Sub-Division, Nellore, dated 08.01.2024 and on the request of the District Panchayat Officer, Panchayat Raj Department, SPSR Nellore, dated 23.01.2024, for construction of Government buildings, No objection certificate (NOC) was issued from this office on 23.01.2024 with specific conditions only. No objection certificate (NOC) was issued, at the site requested by the District Panchayat Officer, Panchayat Raj Department, SPSR Nellore is for construction of Government Buildings and the site is on the Rear side of the River Bank only.

Therefore, in view of the above submissions, this Court is of the prima facie opinion that the proposed construction is coming upon the rear side bank of Penna River. Hence, there shall be an interim direction as prayed for"

Sd/- SK. MD. RAFI
ASSISTANT REGISTRAR

//TRUE COPY//

For A

SECTION OFFICER

To,

1. The Principal Secretary, The State of Andhra Pradesh, , Irrigation Department, Secretariat Buildings, Velagapudi, Amaravathi, Guntur District.
2. The District Collector, SPSR Nellore District, Nellore.
3. The Superintending Engineer, Irrigation circle, Nellore, SPSR Nellore District.
4. The Executive Engineer, Water Resources Department, Nellore Central Division, Nellore, SPSR Nellore District.
5. The District Panchayat Officer, Panchayat Raj Department, SPSR Nellore District.
6. The Extension Officer, PR and RD, Mandal Prajaparishat, Nellore, SPSR Nellore District.
7. The Panchayat Secretary, Pottepalem Grampanchayat, Nellore Rural Mandal, SPSR Nellore District. (Addressess 1 to 7 By RPAD)
8. One CC to SRI. C SUBODH Advocate [OPUC]
9. Two CCs to GP FOR IRRI AND CAD (AP) ,High Court Of Andhra Pradesh. [OUT]
10. Two CCs to GP FOR PANCHAYAT RAJ DEPARTMENT ,High Court Of Andhra Pradesh. [OUT]
11. One CC to SRI. G VENKAT REDDY, Standing Counsel [OPUC]
12. One spare copy.

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HIGH COURT

NV,J

DATED:06/02/2024

POST AFTER THREE WEEKS

ORDER

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IN

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INTERIM DIRECTION

