



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

[3332]

MONDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 3574/2026

Between:

1. KALA LAKSHMI GANAPATHI, S/O VENKATESWARLU, AGED 40
YEARS, R/O DR.NO.2-89, KALAVARI PETA, PALLI
PALEM(V),GAJULURU (M), KAKINADA DT.,

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRI.,
SECRETARY, IRRIGATION AND COMMAND AREA
DEVELOPMENT DEPT., SECRETARIAT, VELAGAPUDI,
AMARAVATHI

2. THE SUPERINTENDING ENGINEER, WATER RESOURCES
(SUB DIVISION) DEPT., LNDRAPALEM-533006, KAKINADA

3. THE DEPUTY EXECUTIVE ENGINEER, WATER RESOURCES,
(SUB DIVISION) DEPT., LNDRAPALEM-533006, KAKINADA

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Final Notice Dt.,12.01.2026 vide No.DEE/KKD SD/KKD Sec./ Final Notice issued by the Respondent No.3 is violative of Art., 14 and 300A of the Constitution

of India and without jurisdiction besides being non application of judicious mind and directing not to proceed further and pass

IA NO: 1 OF 2026

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 suspend the final Notice Dt.,12.01.2026 vide No.DEE/KKD SD/KKD Sec./ Final Notice issued by the Respondent No.3 pending W.P. and pass

Counsel for the Petitioner:

1.TAMMA POOJA DEEPTHI

Counsel for the Respondent(S):

1.GP FOR IRRI AND CAD

The Court made the following:

ORDER:

Impugning the proceedings dated 12.01.2026 issued vide No.DEE/KKD SD/KKD Sec4/Final notice by the 3rd respondent, the present writ petition is filed.

2. Heard Sri V.S.R. Anjaneyulu, learned Senior Counsel appearing on behalf of Ms.J.Pooja Deepthi, learned counsel for the petitioner and Sri Satish Kumar, learned Assistant Government Pleader for Irrigation.

3. Learned Senior Counsel while reiterating the contents of the affidavit contended that the 3rd respondent–Executive Engineer issued a show cause notice *vide* notice No.DEE/WRSD/KKD Sec/4 dated

22.12.2025 alleging that the petitioner had encroached an extent of 30 Sq. meters of land in Sy.No.41 and called upon him to submit an explanation as to why the alleged encroachments should not be removed giving 15 days time. The petitioner submitted his explanation dated 02.01.2026 and sent the same by registered post on 03.01.2026. However, without considering the said explanation, the 3rd respondent passed the impugned proceedings dated 12.01.2026 directing the petitioner to remove the alleged encroachment within 30 days.

4. Learned Senior Counsel further submitted that in the impugned order it is categorically stated that the petitioner failed to submit any explanation, which is incorrect. It is further contended that without conducting any survey to ascertain the alleged encroachment, the impugned order has been passed which does not indicate as to how the authorities have arrived at such conclusion that the petitioner encroached 30 Sq. meters of land. He further submitted that even in the show cause notice, the land is described as Government land whereas the respondents now contend that it is Irrigation land. He further submitted that if the subject land is a Government land, the 3rd respondent has no jurisdiction to issue such notice. However, as a precautionary measure, the petitioner submitted his explanation. The impugned order is in clear violation of the principles of natural justice and the same is liable to be

set aside at admission stage itself, accordingly, prayed to pass appropriate orders.

5. On the other hand, the learned Assistant Government Pleader while justifying the impugned order submitted that there is no illegality or procedural irregularity in passing the orders impugned. He further submitted that since the petitioner did not submit any explanation to the show cause notice dated 12.01.2025, the impugned order was rightly passed. However, the learned Assistant Government Pleader submitted that in the event this Court is inclined to interfere, liberty may be given to the authorities to take steps in accordance with law by conducting a proper enquiry.

6. Perused the record and considered the submissions made by the learned counsel for the parties.

7. Admittedly, a show cause notice vide Notice No.DEE/KKD SD/Final Notice dated 22.12.2025 was issued to the petitioner alleging that he has encroached the Government land. The record would reveal that the petitioner has sent his explanation by registered post on 03.01.2026 whereas the impugned order shows that no explanation was submitted by the petitioner. Further, neither the show cause notice nor the impugned order would specify as to how the authorities have come to such conclusion that the petitioner had encroached an extent of 30 Sq.

meters of land. It is the contention of the learned Assistant Government Pleader that the subject land is irrigation land and the 3rd respondent has no jurisdiction. However, this Court is not inclined to go into the said aspect as to whether the land belongs to the government or irrigation and whether the 3rd respondent has jurisdiction or not. It is for the competent authority to determine the same in accordance with law while conducting enquiry.

8. It is fairly settled that while dealing with a writ, the Court should consider whether the decision making process was in accordance with the rules and the court will also consider whether the decision was arbitrary or capricious, and if it was based on materials on record. Additionally, the court will consider whether the decision was based on procedural fairness, which is essential for reaching a correct decision and whether the decision was based on the law, and if it was in accordance with the Constitution. While doing so, the writ Court should not act as appellate authority and substitute its opinion, if the authority passes order observing procedural fairness.

9. As stated *supra*, there is no material to show that the authorities have conducted a survey except mentioning in the show cause notice that the petitioner had encroached the land to an extent of 30 Sq. yards. Determination of encroachment necessarily requires proper identification

and measurement through a survey conducted in accordance with law. To identify the encroachments, the foremost thing is to conduct a proper survey to ascertain as to what extent the individual has encroached the Government land. Only after such identification, the particulars of the encroachment in the Government land would be clearly known and the same should be mentioned in the show cause notice. The notice must specify such particulars by enclosing copy of the survey report to the individual if required enabling the individual to submit explanation along with the documents in support of his claim. Thereafter, an opportunity of hearing shall also be provided and a reasoned order is required to be passed by the authority concerned. Such procedure is lacking in the present case.

10. In the said circumstances, this Court is of the firm opinion that the orders impugned and the show cause notice are illegal and they are liable to be set aside. As the impugned orders are *ex facie* illegal, no counter is required to be invited as the respondents cannot improvise their case by filing counter. Even after filing counter, the order would be same. As such, this Court is inclined to dispose of the writ petition by passing the following order:

“The impugned proceedings *vide* Notice No.DEE/KKD SD/KKD/ Sec4/Final Notice dated 12.01.2026 is hereby set aside. However, the

authorities are not precluded to take steps if so advised in accordance with law.”

11. Accordingly, the writ petition is ***disposed of***. There shall be no order as to costs.

As a sequel, miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

Date: 09th February, 2026

RKS