



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

Bench
Sr.No:-47
[3552]

WRIT APPEAL NO: 151 of 2026

Smt. K. Vatchala

...Appellant

Vs.

The State of Andhra Pradesh and others

...Respondents

Advocate for Appellant:

Mr. Syed Khader Mastan

Advocates for Respondents:

Mr. Potham Vengala Reddy (SC for M.
Corporation in Rayalaseema Region),
GP for Municipal Admn & Urban Dev.,
Mr. Namineni Pavan Kumar

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE CHALLA GUNARANJAN**

DATE : 16th February, 2026.

Per DHIRAJ SINGH THAKUR, CJ (Oral):

The present Writ Appeal has been preferred against judgment and order dated 03.02.2026, passed in I.A.No.2 of 2026 in/and W.P.No.2743 of 2026.

Briefly stated, the material facts are as under:

2. Building permission, dated 31.01.2025, is stated to have been issued in favour of the petitioner/appellant herein, for construction of RCC residential building consisting of Ground + 2 upper floors in Survey No.335/3, Side

D.No.22-5-100, Kothapalli Residential Area, Thimminaidupalem Village in Tirupati District.

3. The petitioner, having undertaken the construction of the said building, is alleged to have deviated from the sanctioned plan which resulted in a provisional notice, dated 08.12.2025, issued under Sections 452(1) and 461(1) of Andhra Pradesh Municipal Corporation Act, 1955, (for short, “the Act of 1955”). The said notice was duly served upon the petitioner calling upon her to explain as to why the deviation made in the construction should not be removed and demolished. It is not out of place to mention that the deviation was with regard to the setbacks and is in the following fashion:

S. No.	Details	As per approved B.A.No.1012/0404/B/TIR/TP/2018	As on Ground	Deviations
1.	Site extent (in sq. mts)	173.71	173.71	No Deviation
2.	Road widening area	0	0	No Deviation
3.	Front Setback	1.50	0	1.50
4.	Rear Setback	1.00	0	1.00
5.	Side open space (1)	1.00	0	1.00
6.	Side open space (2)	1.00	0	1.00
7.	No. of floors	Ground + 2	Ground + 1	No Deviation
8.	Usage	Residential	Residential	No Deviation
9.	Extent	239.46	347.42	107.96

4. Subsequently, it appears that a confirmation order, dated 02.01.2026, was passed under Sections 452(2) and 461(2) of the Act of 1955 and the petitioner was instructed to pull down the construction within seven days,

failing which, the petitioner stood informed that legal action would be initiated against the said construction, including demolition, as per the provisions of the Act of 1955.

5. Finally, in exercise of powers conferred under Section 636 of the Act of 1955, the Commissioner, Tirupati Municipal Corporation, passed orders, dated 22.01.2026, whereby the petitioner was directed to remove/demolish the deviations made by her within 24 hours, failing which the petitioner stood informed that the demolition would be undertaken at the cost and expense of the petitioner. This order came to be challenged by the petitioner before the learned single Judge, during the pendency of which, an application came to be filed seeking impleadment by respondent No.3 in the writ petition.

6. The main plank of the petitioner's case was that the Government notified a Scheme called Building Penalization Scheme by virtue of G.O.Ms.No.225, Municipal Administration and Urban Development (M) Department, dated 12.11.2025, under which the deviations could be compounded and the construction regularized, except in cases which fell under clause 6 of the said Scheme, and such cases included among others, encroachment on Government land or property belonging to Public Undertakings, etc., as also in regard to those sites which were under legal litigation/disputes regarding ownership of the site/building.

7. It appears that in the application seeking impleadment, applicant/respondent No. 3 herein brought to the notice of the Court that the

petitioner had concealed the fact that there were several complaints filed by the applicant before the authorities from time to time regarding the grant of building permission in favour of the petitioner, inasmuch as the applicant had a dispute with regard to the plot in question with respect to which the building permission had been granted. It is further stated in the application that it was the petitioner who had encroached upon a portion of the land belonging to the applicant, which was a plot over which the construction was supposed to be raised by the applicant.

8. The contention of the applicant then before the learned Single Judge as also before us is that there were applications/representations, dated 24.11.2025 and 06.12.2025, filed before the Commissioner, Tirupati Municipal Corporation, on which the authority concerned was yet to pass appropriate orders.

9. The learned Single Judge, on getting apprised of this development, was of the view that the petitioner was under an obligation to have placed all the material facts before the Court in the writ petition and having concealed those facts, it was on that basis that the writ petition was dismissed by placing reliance *inter alia* on the Apex Court judgment rendered in the case of **A.V. Papayya Sastry v. Government of Andhra Pradesh**¹, which holds that “Fraud Avoids all judicial acts, ecclesiastical or temporal” and that a judgment, decree or order obtained by playing fraud on the court or tribunal was a nullity and non *est* in the eye of law.

¹ 2007 (4) SCC 221

10. We have heard learned counsel for the parties.

11. The main reason for challenging the order dated 22.01.2026 by the petitioner before the learned Single Judge was the fact that the deviations made in the course of construction of the building could be regularized in terms of Government Order No.225, dated 12.11.2025. On account of the dismissal of Writ Petition, the petitioner, feeling aggrieved, filed the present Writ Appeal on the ground that there was no concealment at all and that the issue with regard to compounding of deviations, committed during the course of construction would remain unaffected, even if the facts which were subsequently brought to the notice of the learned Single Judge had not been incorporated so in the Writ Petition.

12. In the instant case, the petitioner was seeking the benefit of Government Order No.225 and consideration of her application for regularization of the deviations made by her. The facts which were brought to the notice of the court by way of the application seeking impleadment did indicate that there was a dispute with regard to boundaries between the two parties, i.e. petitioner/appellant herein and respondent No.3 herein. In fact, under the Building Penalization Scheme, and more particularly clause 6(i) thereof, the existence of legal litigation or a dispute concerning the ownership of the site or building would be sufficient to take such site outside the purview of the Scheme.

13. Learned counsel for respondent No.3 vehemently argued that no benefit of Government Order No.225 could be availed by the petitioner as there is a dispute with regard to ownership of the site in question, inasmuch as respondent No.3 had sought survey of the land in question and it was determined by the revenue authorities that the petitioner had in fact encroached upon the land belonging to respondent No.3. It was thus sought to be highlighted that since there was a dispute which did fall within the purview of clause 6(i) of Government Order No.225, no right accrued in favour of the petitioner to seek benefit of the said Government Order.

14. Having heard learned counsel for the parties, we are of the opinion that the issue as to whether a particular set of facts falls within or outside the ambit of the Government Order ought to have been left open for consideration by the competent authority while determining the permissibility of granting the benefit of compounding of the violation under G.O.Ms.No.225, dated 12.11.2025.

15. In our opinion, it was premature for the learned Single Judge to decide whether the petitioner was entitled to the benefit of Government Order No.225 or not. The issue, therefore, ought to have been relegated to the authority identified under Government Order No.225, where even respondent No.3, who had made the application for impleadment, could have been permitted to be heard in the matter.

16. With a view to resolve this issue, we issue the following directions:

- i) The Commissioner, Tirupati Municipal Corporation, shall take an appropriate decision on the application/representation submitted by respondent No.3 dated 24.11.2025, stated to have been resubmitted on 06.12.2025, within a period of two (02) months from today, on the question whether any fraud, as has been alleged by respondent No.3, was committed by the petitioner in obtaining the sanction in her favour.
- ii) If the finding is in the negative, the matter shall thereafter be considered by the competent authority under Government Order No.225, which shall determine whether, in the facts of the present case, the dispute between the parties in regard to boundaries of the plots in question is such as would exclude the petitioner from availing the benefit of the Building Penalization Scheme, and, if not, the extent to which such benefit may be granted.
- iii) Till such time as the Commissioner, Tirupati Municipal Corporation takes a decision and the same is conveyed to the parties, no further action shall be initiated on the application for seeking the benefit of Government Order No.225.
- iv) Judgment and order impugned to that extent, is accordingly set aside.
- v) Accordingly, the Writ Appeal stands allowed-in-part.

- vi) However, it is made clear that in case the Building Penalization Application is rejected, the demolition would follow as a matter of course, and not otherwise.

Pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ.

CHALLA GUNARANJAN, J.

SSN