

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

WRIT PETITION NO: 4684 OF 2026

Between:

1. SYED GOUSE BASHA, S/o. Syed Dastagir Basha, Aged about 55 years, Occ Photo frame work Business, C/o. 11-1561 A.C. Bhavan, Municipal Complex, shop No.2, and 8, A.C Bomma Center, Near Vinayaka Hall Center Nellore, S.P.S.R. Nellore District

...Petitioner

AND

1. THE STATE OF AP, Rep.by its Principal Secretary, Municipal administration Urban Development Department, Secretariat Buildings at Velagapudi, Amaravathi, Guntur District.

2. The Nellore Municipal Corporation, rep. by its Commissioner, Nellore, S.P.S.R. Nellore District.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 22.04.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE G. RAMAKRISHNA PRASAD

- | | |
|--|----------|
| 1. Whether Reporters of Local Newspapers may be allowed to see the judgment? | Yes / No |
| 2. Whether the copies of judgment may be marked to Law Reporters / Journals? | Yes / No |
| 3. Whether His Lordship wish to see the fair copy of the Judgment? | Yes / No |

GANNAMANENI RAMAKRISHNA PRASAD, J

*** THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

+ WRIT PETITION NO: 4684 OF 2026

% 22.04.2026

Between:

1. SYED GOUSE BASHA, S/o. Syed Dastagir Basha, Aged about 55 years, Occ Photo frame work Business, C/o. 11-1561 A.C. Bhavan, Municipal Complex, shop No.2, and 8, A.C Bomma Center, Near Vinayaka Hall Center Nellore, S.P.S.R. Nellore District

...Petitioner

AND

1. THE STATE OF AP, Rep.by its Principal Secretary, Municipal administration Urban Development Department, Secretariat Buildings at Velagapudi, Amaravathi, Guntur District.

2. The Nellore Municipal Corporation, rep. by its Commissioner, Nellore, S.P.S.R. Nellore District.

...Respondents

! Counsel for Petitioner/s : Sri Sk. Iliyaz, learned Counsel for the Writ Petitioner

^ Counsel for Respondent/s : Sri S. Vijaya Kumar, learned Counsel appearing on behalf of Sri A.S.C. Bose, learned Standing Counsel for Municipal Corporations.

< Gist:

> Head Note:

4. ? Cases referred:

- i. (2004) 10 SCC 665
- ii. 2025 SCC OnLine SC 1501
- iii. (2006) 8 SCC 487
- iv. (2010) 12 SCC 204

APHC010083442026



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

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

WRIT PETITION NO: 4684 OF 2026

Between:

1. SYED GOUSE BASHA, S/o. Syed Dastagir Basha, Aged about 55 years,
Occ Photo frame work Business, C/o. 11-1561 A.C. Bhavan, Municipal
Complex, shop No.2, and 8, A.C Bomma Center, Near Vinayaka Hall Center
Nellore, S.P.S.R. Nellore District

...Petitioner

AND

1. THE STATE OF AP, Rep.by its Principal Secretary, Municipal
administration Urban Development Department, Secretariat Buildings at
Velagapudi, Amaravathi, Guntur District.

2. The Nellore Municipal Corporation, rep. by its Commissioner, Nellore,
S.P.S.R. Nellore District.

...Respondents

Counsel for the Petitioner: ILIYAZ SK

**Counsel for the Respondents: GP MUNICIPAL ADMN AND URBAN DEV
AP**

The Court made the following ORAL ORDER:

Heard Sri Sk. Iliyaz, learned Counsel for the Writ Petitioner and Sri S. Vijaya Kumar, learned Counsel appearing on behalf of Sri A.S.C. Bose, learned Standing Counsel for Municipal Corporations.

2. Writ Petitioner has challenged the notice issued by the Respondent Corporation dated 07.02.2026 (Ex.P.1). Learned Counsel for the Writ Petitioner would also submit that Respondent No.2 has issued Trade Licence dated 29.01.2026 (Ex.P.5) in favour of the Writ Petitioner and the Writ Petitioner has been carrying on business in the present premises for the last five years.

3. At the outset, Sri S. Vijaya Kumar, learned Counsel appearing on behalf of Sri A.S.C. Bose, learned Standing Counsel for Municipal Corporations has raised a preliminary objection that the Writ Petition is not maintainable in the present form, inasmuch as the impugned notices are issued to one Sri I. Vijaya Kumar and Sri M. Thirupathaiah, whereas the present Writ Petitioner has nothing to do with the demand raised by the Respondents against Sri I. Vijaya Kumar and Sri M. Thirupathaiah. He would also contend that the Respondent No.2 has granted lease of Shops in favour of Sri I. Vijaya Kumar and Sri M. Thirupathaiah but not the Writ Petitioner and that the Respondent Corporation has raised a claim of Rs.7,30,430/- against both the lessees but not the Writ Petitioner. He would also submit that the Writ Petitioner has been illegally conducting the business from Shop No.2 (leased to Sri I. Vijaya Kumar) and Shop No.8 (leased to Sri M. Thirupathaiah).

4. Sri S. Vijaya Kumar, learned Counsel appearing on behalf of Sri A.S.C. Bose, learned Standing Counsel for Municipal Corporations would submit that Sri I. Vijaya Kumar and Sri M. Thirupathaiah have illegally sub-leased the Shop Nos.2 & 8 to the Writ Petitioner and that the Writ Petitioner has no right to file the present Writ Petition.

5. Having considered these aspects, *prima-facie*, it appears that the Writ Petitioner does not have any right to file the present Writ Petition against the Official Respondent No.2, inasmuch as the Shop Nos.2 & 8 have been leased in favour of Sri I.Vijaya Kumar and Sri M. Thirupathaiah respectively.

6. Admittedly, the Shop Nos.2 & 8 were leased-out by the Respondent Corporation to Sri I. Vijaya Kumar and Sri M. Thirupathaiah respectively and the Writ Petitioner has established the Glass and Photo frame works in both the Shops jointly, probably under unauthorized and illegal sub-lease. In any case, the impugned notices itself would indicate that they were issued to Sri I. Vijaya Kumar and Sri M. Thirupathaiah. Therefore, this Court opines that the lessees namely Sri I. Vijaya Kumar and Sri M. Thirupathaiah would be the necessary parties, who cannot be left-out in the present Writ Petition. Despite the fact that the lessees are invariably the necessary parties, the Writ Petitioner has not chosen to array them in the Cause Title. Therefore, this Writ Petition suffers from the *vice* of non-joinder of necessary parties. This apart, the projection of Trade Licence in favour of the Writ Petitioner is of no avail for seeking the present relief. Although the Writ Petitioner had not placed any material on record to show whether the Writ Petitioner had been paying any rents to the original lessees or not, nevertheless, it can be safely assumed that the Writ Petitioner had been paying the rents/lease amounts to the original lessees and that the said original lessees must have been enjoying such rental proceeds without paying even the minimum lease amount to the Corporation.

Non-joinder of Necessary Parties:

7. It is also settled law that non-joinder of necessary parties even in a Writ Petition can lead to dismissal of the Writ Petition, inasmuch as the litigants cannot be permitted to obtain Orders from the Writ Court with sinister motives to execute such Orders against non-parties in the litigation by projecting that the Order passed by the Writ Court is an Order in *rem* and not an Order in *personam*. The view of this Court is fortified by the dictum of

Hon'ble Apex Court in ***Dattatreya and Others v. Mahaveer and Others*** : (2004)

10 SCC 665, the Hon'ble Apex Court in Para No.10 held as under :

*“10. In the meantime, in the year 1985 an application in Form I was given by the appellants for registration of occupancy under the provisions of the Karnataka Certain Inams Abolition Act, 1977. Since it remained pending and was not decided, another writ petition was filed, namely, Writ Petition No. 5495 of 1992 but the respondents were not impleaded as parties to the said petition. It is true a direction was sought for the Tribunal to dispose of the application moved by the appellants in the year 1985 and the learned Single Judge being uninformed about the earlier order passed by the Tribunal in 1979 in respect of the same land on an application in which both parties were represented, passed the order for disposal of the application on merits. We, however, feel that the learned Single Judge went wrong one-sidedly in saying that it was incumbent upon the respondents to have got the order reviewed or modified. **By not impleading the present respondents as parties in Writ Petition No. 5495 of 1992 the appellants deprived the respondents of an opportunity to challenge that order; rather they were kept in the dark about the whole proceeding. Any order to consider the application of the appellants moved in 1985 was likely to affect the order dated 3-7-1979 passed in favour of the respondents. The appellants knew it, being parties in the earlier proceedings of 1974. The fact thus remains that the material facts were not brought to the notice of the Court and the persons who were ultimately to be affected were avoided to be impleaded as parties. It was merely not a question of non-impleadment of necessary parties technically and strictly in accordance with the provisions of the Code of Civil Procedure rather was very much a question of proper parties being there before the court particularly in proceedings under Article 226 of the Constitution. The argument tried to be raised otherwise is not tenable. The appellants cannot be allowed to claim any bona fides in not impleading the respondents as parties in that writ petition or about non-disclosure of the earlier order dated 3-7-1979 in respect of the same land and within their knowledge on the ground that it was not necessary to disclose it. As observed earlier, they knew well that if any order is passed in their favour the respondents would be the affected persons. The respondents were deprived from raising this point before the learned Single Judge regarding a pre-existing order relating to the same land and non-disclosure of the same. The conduct of the appellants had been far***

from being fair if not fraudulent. It was a deliberate suppression of material fact which caused prejudice to the respondents. Fair play is the basic rule to seek relief under Article 226 of the Constitution.”

(Emphasis Supplied)

8. In ***Avtar Singh Hit v. Delhi Sikh Gurdwara Management Committee and others*** (2006) 8 SCC 487, the Hon'ble Apex Court in Para Nos.31 & 32 held as under :

“31. In our view no relief could have been granted to the writ petitioners on account of the fact that the newly elected office-bearers of the Executive Board, who would have been affected by the decision of the writ petitions, were not impleaded as party to the writ petitions. In Udit Narain Singh Malpaharia v. Addl. Member, Board of Revenue [1963 Supp (1) SCR 676 : AIR 1963 SC 786] it was observed that where in a petition for a writ of certiorari made to the High Court, only the tribunal whose order was sought to be quashed was made a party but the persons who were parties before the lower tribunal and in whose favour the impugned order was passed were not joined as parties; the writ petition was incompetent and had been rightly rejected by the High Court. In Prabodh Verma v. State of U.P. [(1984) 4 SCC 251 : 1984 SCC (L&S) 704 : AIR 1985 SC 167] it was held: (SCC p. 256)

“A High Court ought not to hear and dispose of a writ petition under Article 226 without the persons who would be vitally affected by its judgment being before it as respondents or at least some of them being before it as respondents in a representative capacity if their number is too large to join them as respondents individually, and, if the petitioners refuse to so join them, the High Court ought to dismiss the petition for non-joinder of necessary parties.”

32. In Ishwar Singh v. Kuldip Singh [1995 Supp (1) SCC 179 : 1995 SCC (L&S) 373 : (1995) 29 ATC 144] it was held that a writ petition challenging selection and appointment to some posts without impleading the selected candidates was not maintainable. This view has been reiterated in Arun Tewari v. Zila Mansavi Shikshak Sangh [(1998) 2 SCC 332 : 1998 SCC (L&S) 541 : AIR 1998 SC 331].”

9. In Para No.9 of the Judgment of the Hon'ble Apex Court in **Uttaranchal Public Service Commission v. Mamta Bisht** : (2010) 12 SCC 204, the Hon'ble Apex Court held as under:

“9. In case Respondent 1 wanted her selection against the reserved category vacancy, the last selected candidate in that category was a necessary party and without impleading her, the writ petition could not have been entertained by the High Court in view of the law laid down by nearly a Constitution Bench of this Court in Udit Narain Singh Malpaharia v. Board of Revenue [AIR 1963 SC 786] , wherein the Court has explained the distinction between necessary party, proper party and pro forma party and further held that if a person who is likely to suffer from the order of the court and has not been impleaded as a party has a right to ignore the said order as it has been passed in violation of the principles of natural justice. More so, proviso to Order 1, Rule 9 of the Code of Civil Procedure, 1908 (hereinafter called “CPC”) provides that non-joinder of necessary party be fatal. Undoubtedly, provisions of CPC are not applicable in writ jurisdiction by virtue of the provision of Section 141 CPC but the principles enshrined therein are applicable. (Vide Gulabchand Chhotalal Parikh v. State of Gujarat [AIR 1965 SC 1153] , Babubhai Muljibhai Patel v. Nandlal Khodidas Barot [(1974) 2 SCC 706 : AIR 1974 SC 2105] and Sarguja Transport Service v. STAT [(1987) 1 SCC 5 : 1987 SCC (Cri) 19 : AIR 1987 SC 88] .)”

10. In **Vishnu Vardhan alias Vishnu Pradhan vs. State of Uttar Pradesh and Others** : 2025 SCC OnLine SC 1501, the Hon'ble Apex Court in Para Nos. 43 to 46, 48 to 50 held as under :

“43. Although the provisions of the CPC do not apply to writ proceedings ex proprio vigore, the principles flowing therefrom, as far as practicable, can be made applicable. Order I Rule 9, CPC, as originally enacted, ordained that a suit shall not be defeated by reason of misjoinder or nonjoinder of parties; however, after its amendment in 1976 introducing the proviso, the implication is that non-joinder of a party could, in a given case, prove fatal for the right to relief claimed by the plaintiff, more so when a necessary party is not impleaded, and defeat the suit. Although Order I Rule 10 does empower a court to implead at any stage of the proceedings a party who should have been joined as a defendant, either upon or without the application of either

party, a decree passed by the court in the absence of a necessary or proper party to the suit and affecting his interest could be avoided by such party; however, if the decree is such that it acknowledges and declares the right of the decree-holder to the subject matter of the suit and entitles him to its benefits, such a decree has to be carried either in appeal or review by the affected non-party to divest the decree-holder of whatever the decree entitles him to.

44. Insofar as writ proceedings are concerned, it is no longer res integra that any order made on a writ petition affecting the interest of a party who has not been arrayed as a respondent could be invalidated on the ground of breach of natural justice.

45. We may profitably refer to the decision in *Poonam v. State of U.P.*³⁹. Although the decision was rendered in connection with a selection process for allotment of a fair price shop, this Court after analysing various previous decisions emphasised:

“21. We have referred to the aforesaid passages as they state the basic principle behind the doctrine of natural justice, that is, no order should be passed behind the back of a person who is to be adversely affected by the order. The principle behind the proviso to Order 1 Rule 9 that the Code of Civil Procedure enjoins it and the said principle is also applicable to the writs. An unsuccessful candidate challenging the selection as far as the service jurisprudence is concerned is bound to make the selected candidates parties.”

46. A reference may further be made to the decision in *Ajay Ishwar Ghute v. Meher K. Patel*⁴⁰ wherein a Bench of two Judges [of which one of us (Ujjal Bhuyan, J.) was a member] in an appeal against an order made under Article 226 of the Constitution, held thus:

“21. In the facts of the case, the senior district-level officials of the State had stated on oath that the construction of the compound wall, in respect of which relief was sought in the Writ Petition, would affect the rights of several third parties. However, the Court completely ignored the same. Even in clause 6(iii) of the “Minutes of Order”, there was enough indication that the compound wall, if not appropriately

constructed, would affect the rights of owners of the other lands. Therefore, it was the duty of the Court to have called upon the 1st and 2nd respondents to implead the persons who were likely to be affected. The 1st and 2nd respondents could not have pleaded ignorance about the names of the concerned parties as they have referred to the owners of the other lands in the “Minutes of Order”. However, the Division Bench of the High Court has failed to make even an elementary enquiry whether third parties will be affected by the construction of the compound wall under police protection. Hence, the order dated 16th March 2022 passed in the Writ Petition in terms of the “Minutes of Order” is entirely illegal and must be set aside. The Writ Petition will have to be remanded to the High Court to decide the same in accordance with the law.”

47. xxx

48. However, it is clarified that we do not seek to make any opprobrious remarks against the High Court as it was incumbent upon Reddy to implead Vishnu and Sudhakar as respondents in his writ petition and the High Court could not have been expected to know the long-standing disputes or the fact that Reddy had procured change in the revenue records on the basis of the compromise decree whereupon further proceedings between Vishnu and Reddy in the shape of a suit were pending unless the same was brought to its notice.

49. In any event, having regard to the events preceding presentation of the writ petition by Reddy, out of which the present proceedings have arisen, we have no hesitation to hold that Reddy tailored a situation to suit his convenience by not impleading Vishnu as a party with the sole intention of obtaining an order in respect of not only the quantum of compensation payable for acquisition of the subject land but also a declaration as to his entitlement thereto - all, behind Vishnu's back. An attempt by Reddy to steal a march over Vishnu is clearly discernible which, without reference to anything more, does border on fraud.

50. Moving ahead, it is equally well settled that suppression of even a single material fact can be fatal before writ courts. In this context, one may usefully refer to the decision of this Court in *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar*⁴² where the law has succinctly been stated as follows:

“13. As a general rule, suppression of a material fact by a litigant disqualifies such litigant from obtaining any relief. This rule has been evolved out of the need of the courts to deter a litigant from abusing the process of court by deceiving it. But the suppressed fact must be a material one in the sense that had it not been suppressed it would have had an effect on the merits of the case. It must be a matter which was material for the consideration of the court, whatever view the court may have taken”

(Emphasis Supplied)

11. In the aforesaid premise, the present Writ Petition is not maintainable only at the behest of the Writ Petitioner, inasmuch as the Shop Nos.2 & 8 were leased-out to Sri I. Vijaya Kumar and Sri M. Thirupathaiah but not the Writ Petitioner herein. Accordingly, this Writ Petition is dismissed as not maintainable in view of non-joinder of necessary parties. No Order as to Costs.

12. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 22.04.2026

L.R Copy to be marked.

B/O : JKS

98

HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION No. 4684 OF 2026

22.04.2026

**Note: L.R. Copy to be marked.
B/O : JKS**