



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

[3329]

MONDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 4040/2019

Between:

1. V V BHASKAR REDDY, S/O. V RAMANA REDDY, AGED ABOUT 47 YEARS , RESIDING AT PLOT NO 2, JALVAYU VIHAR, PRATHIMA HOSPITAL, KUKATPALLY, HYDERABAD.
2. VANGALA RAMAKRISHNA REDDY, S/O V RAMANA REDDY, AGED ABOUT 31 YEARS, R/O KOTHURU, VINJAMUR, VINJAMURU MANDAL, NELLORE, SPSR NELLORE DISTRICT
3. GUNNAM SRIDEVI, D/O M PEDDA SUBBA REDDY, AGED ABOUT 29 YEARS, R/O KOTHURU, VINJAMUR, VINJAMURU MANDAL, NELLORE, SPSR NELLORE DISTRICT
4. GUNNAM SUDHAKAR REDDY, S/O G RAMANA REDDY AGED ABOUT 50 YEARS, R/O KOTHURU, VINJAMUR, VINJAMURU MANDAL, NELLORE, SPSR NELLORE DISTRICT

...PETITIONER(S)

AND

1. STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY, PANCHAYAT RAJ AND RURAL DEPARTMENT, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.
2. THE DISTRICT COLLECTOR, NELLORE, SPSR NELLORE DISTRICT.

3. THE DISTRICT PANCHAYAT OFFICER, NELLORE, SPSR NELLORE DISTRICT.
4. VINJAMURU GRAM PANCHAYAT, REP BY ITS PANCHAYAT SECRETARY, VINJAMURU VILLAGE, VINJAMURU MANDAL, SPSR NELLORE DISTRICT.
5. YALLALA BAL REDDY S/O PICHU REDDY, AGED ABOUT 38 YEARS, R/O KOTHURU VILLAGE, VINJAMURU POST AND MANDAL, SPSR NELLORE DT.
6. REVUNURU RAVI KUMAR REDDY, S/O RAGHAVA REDDY, AGED ABOUT 46 YEARS, R/O KOTHURU VILLAGE, VINJAMURU POST AND MANDAL, SPSR NELLORE DT. RR 5 AND 6 ARE IMPEADED AS PER THE ORDER OF THIS COURT, DT.07.12.2023 VIDE ORDER PASSED IN I.A.2 OF 2019.

...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 a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 4 in not obstructing the illegal construction of temple by encroaching public road by the villagers, situated at Vinjamuru panchayat and Vinjamuru Mandal, SPSR Nellore District, in spite of repeated representations submitted by petitioner is illegal, irregular, arbitrary and violative of provisions of relevant Panchayat laws by which construction of buildings in Panchayats in the state of Andhra Pradesh is governed and offends Art, 14 and 21 of Constitution of India and Consequently direct the respondents 1 to 4 to demolish illegal and unauthorized construction situated in Vinjamuru panchayat and Vinjamuru Mandal, SPSR Nellore District

IA NO: 1 OF 2019

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 to stop the illegal construction of temple by encroaching public road, situated at Vinjamuru panchayat and Vinjamuru

Mandal, SPSR Nellore District SPSR Nellore District, by considering the representation Dt. 18.03.2019 pending disposal of the main Writ Petition

IA NO: 2 OF 2019

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 permit the petitioner to implead the petitioner as party/ respondent to the above W.P No. 4040/2019, and to pass

IA NO: 3 OF 2019

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 vacate the interim direction dated: 28.03.2019 in I.A 1/2019 passed in W.P No. 4040/2019 and dismiss the writ petition, with exemplary costs, and to pass

IA NO: 1 OF 2024

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 pleased to vacate the interim orders passed on 28.03.2019 in IA No. 1/2019 in WP No 4040/2019 and pass

Counsel for the Petitioner(S):

- 1.SIVAPRASAD REDDY VENATI

Counsel for the Respondent(S):

- 1.VENKATA REDDY GAJJALA SC FOR ZPP, MPP, AND GRAM PANCHAYAT
- 2.GP FOR REVENUE
- 3.AMANCHARLA SATISH BABU
- 4.GP FOR PANCHAYAT RAJ RURAL DEV (AP)

The Court made the following:

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 4040/2019

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following relief:

“.....pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 4 in not obstructing the illegal construction of temple by encroaching public road by the villagers, situated at Vinjamuru panchayat and Vinjamuru Mandal, SPSR Nellore District SPSR Nellore District, in spite of repeated representations submitted by petitioner is illegal, irregular, arbitrary and violative of provisions of relevant Panchayat laws by which construction of buildings in Panchayats in the state of Andhra Pradesh is governed and offends Art, 14 and 21 of Constitution of India and Consequently direct the respondents 1 to 4 to demolish illegal and unauthorized construction situated in Vinjamuru panchayat and Vinjamuru Mandal, SPSR Nellore District.....”

2. Heard the learned counsel for the petitioners, learned Government Pleader for Panchayat Raj, learned Standing Counsel for the Gram Panchayat and learned counsel for the unofficial respondents.

3. The case of the petitioners is that they are the permanent residents of the 4th respondent Gram Panchayat and got constructed their respective houses adjacent to one Gram Panchayat road, which is situated opposite to an ancient temple that has existed since times immemorial.

4. He further submits that while so, at the instance of the unofficial respondent Nos.5 & 6, and without there being any permission as required under Section 121 of the Andhra Pradesh Panchayat Raj Act, 1994 or under Proviso to Rule 26 of the Andhra Pradesh Gram Panchayat Land Development (Layout and Building) Rules, 2002, the unofficial respondent Nos.5 & 6, are trying to proceed with the construction of the temple.

5. He further submits that if the temple is constructed by encroaching upon the entire road margin, it is likely to cause significant traffic congestion in front of the petitioners' houses and it would cause much inconvenience to the public at large and to the petitioners. Hence, the Writ Petition.

6. On the other hand, the learned Government Pleader for Panchayat Raj filed counter-affidavit on behalf of the 3rd respondent, wherein, the relevant paragraph Nos.6, 7 & 9 are extracted hereunder:

6. It is submitted that, the 3rd respondent i.e. District Panchayat officer, Nellore has directed the 4th respondent i.e. Panchayat Secretary, Vinjamuru Grama Panchayat vide Memo ROC No. 621 /2019-A6 Dated 22-08-2019 for implementing the interim order dated 28-03-2019 issued by the Hon'ble High Court of A.P. and send the report to this office. (Copy enclosed).

7. It is submitted that the 4th respondent has sent a statement dated 17-09-2019 to this office stated that, at present the construction of works near ancient temple were stopped as per the interim orders issued by the Hon'ble High Court of A.P.

(Copy of the statement is enclosed).

9. It is submitted that, as per the G.O.Ms.No.376 PR&RD Dept. dt.29.11.2012, no site shall be used for construction of a building intended for public worship or religious purpose without prior approval of the District Collector at initial stage. Further, under section 121 of A.P.P.R. ACT 1994, no piece of land shall be used as a site for the construction of a building and no building shall be constructed or re-constructed and no addition or alternation shall be made to on existing building without permission of the Grama Panchayat granted in accordance with the provisions of any rules or bye-laws made under this act, relating to the use of building sites or the construction or re-construction of building. (copies enclosed). Hence the Grama Panchayat is alone to giving such permissions in respect of renovation works made by the construction committee in place of ancient temple in Kothuru area of VinjamurGarma Panchayat.

7. It is further stated that no building permission has been granted for the new construction of the temple, as required under Rule 26 of the “Gram Panchayat” (Land Development and Layout of Buildings) Rules, 2002.

8. On the other hand, learned Standing Counsel for Gram Panchayat has furnished a copy of written instructions issued by the 4th respondent, wherein, the relevant portion is extracted hereunder:

“It is humbly submitted that the temple was already constructed over that vacant dead end land side portion which is beyond the premises of the petitioner, the temple was located at that site from many years, Moreover the temple was not

constructed by one, it was upon belief the colony people made it with a big heart in that small space of vacant dead end land. Therefore, obstructing the illegal construction of temple by encroaching public road by the villagers situated at Vinjamuru panchayat and Vinjamuru Mandal SPSR Nellore District SPSR Nellore District in spite of repeated representations submitted by petitioner is filed with false intent and everyone in that place is in support of that temple, it was only the petitioner and moreover the temple was already constructed in the year 2019 itself and no way linked to the petitioner at any stage.”

9. The unofficial respondent Nos.5 & 6 have also filed counter-affidavit along with the implead petition i.e., I.A.No.2 of 2019, wherein, the relevant paragraph Nos.5 & 6 are extracted hereunder:

(5) it further submitted that the temple is in old construction as the temple construction was done prior to independence, temple is deplete condition, therefore all the villagers have collected funds from general public and started construction for resetting the walls of temple except that there is no new construction as alleged in the writ petition. The writ petitioners are colluded with respondents herein and filed this writ petition reasons best known to them. Hence the allegations are baseless and no cause of action is arose to the writ petitioners for filing above WP. The Implead petitioners are taking steps against the writ petitioners under sec 340 of criminal procedure code for placing incorrect and wrong information deliberately by way affidavit before this Hon'ble court for obtaining favorable orders without impleading the villagers as respondents.

6) it is apt to submit here the 8th respondent hands in glow with writ petitioners issued proceedings vide in ROC No 63/2019 and threatening to stop poojas and other regular religious ceremonies vide in ROC No 63/2019, taking advantage this Hon,ble Court order dt 28-03-2019 in IA No1/2019 in WP 4040/2019, Therefore the action of 8th respondent is bad and contrary to law.

10. Upon considering the submissions made by the learned counsel for the petitioners, the learned Government Pleader, and the learned Standing Counsel, learned counsel particularly to the unofficial respondents, it is observed that, admittedly, no permission has been granted to proceed with any further construction in or around the existing ancient temple at the 4th respondent Gram Panchayat.

11. As contended by the learned counsel for the petitioners, the unofficial respondents are alleged to have been encroaching upon the road margin and attempting construction; however, according to the counter-affidavit filed by unofficial respondent Nos.5 & 6, this is merely an apprehension of the petitioners. It is stated that no construction has been taken place on the road margin, and that the temple is an ancient structure existing since before the nation's independence.

12. As per the contentions of the unofficial respondents Nos.5 and 6, in their counter-affidavit, it is noted that the respondents are taking steps/attempting to

strengthen the existing ancient temple by replacing walls and other necessary structures, as the temple is in a dilapidated condition.

13. However, if the respondents are strengthening the ancient temple or by undertaking further construction of walls and other structures, certainly in violation of Rule 26 of the Gram Panchayat (Land Development Layout and Buildings) Rules, 2002, clearly mandates specific permission for any new constructions, alterations, or replacements to the existing structure. Therefore, in the absence of the requisite new permission under the said Rule 26, the unofficial respondents No.5 & 6 cannot be allowed to proceed further with the construction under the pretext that it is an ancient temple. Furthermore, as a public authority, the 4th respondent-Gram Panchayat's assertion that the construction is being carrying out according to the wishes of the villagers is contrary to law.

14. It is submitted by the 4th respondent-Gram Panchayat that the construction is contrary to law and proceeding as if there is permission. Being a public authority, the 4th respondent cannot make such statements that the construction is going on as per the wish of the villagers, even without permission is nothing but dereliction of duties on part of the Gram Panchayat, such inaction amounts to illegal and the same is impermissible.

15. In view of the reasons stated above, respondent Nos.2 to 6 are hereby directed not to permit or undertake any further construction that by

encroaching upon the road margins or public property without obtaining valid permission from the concerned authority in accordance with law as stated *supra*. Since, the 3rd respondent specifically stated that as of now, the construction is stopped as it is and the respondents are specifically directed not to proceed further with the construction without valid permission.

16. In the result, the Writ Petition is disposed of. There shall be no order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

04.08.2025
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VENKATESWARLU NIMMAGADDA, J

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THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.4040 of 2019

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