



**IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)
TUESDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE**

:PRESENT:

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY
IA No. 1 OF 2023
IN
WP NO: 5643 OF 2023**

Between:

Pathan Habibulla Khan, S/o Noor Khan, Aged about 64 years, Occ. Business,
Resident of D.No.2-3-3, Market Street, 4th Ward, Ponnur town and Mandal, Guntur
District.

Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Municipal Administration and Urban Development Dept., Secretariat, Velagapudi, Amaravathi.
2. The District Collector, Guntur District at Guntur.
3. The Ponnur Municipality, Rep. by its Commissioner, Ponnur, Guntur District.
4. The Tahsildar, Ponnur Mandal, Guntur District.
5. The Chairman, A.P. State Wald' Board, 4th Floor, Imdadghar Building, Kaleswara Rao Market, Tarapet, Vijayawada, NTR District.
6. Sri Shaik Mohammad @ Mamu, President, Ponnur Anjuman-E-Eslamia Welfare Society, Beside Abdul Kalam Shadi Khana, 4th Ward, Ponnur Municipality, Guntur District.
7. Sri Kilari Venkata Rosaiah, Member of Legislative Assembly, Ponnur Assembly Constituency, Ponnur, Guntur District.

Respondents

Counsel for the Petitioner : Sri VUTUPALLI RAJANNA

Counsel for the Respondent No.1:GP FOR MUNICIPAL ADMN URBAN DEV

Counsel for the Respondent Nos. 2 and 4:GP FOR REVENUE

Counsel for the Respondent No.3:Sri M MANOHAR REDDY

Counsel for the Respondent No.4:Sri S ARIFULLA

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 2 to 5 not to permit the 6th respondent in proceeding with the construction of shopping complex in burial ground in an extent of Ac.0.05 cents out of Ac.1.65 cents, situated in Sy.No.396/ 1, Ponnur Municipality and Mandal, Guntur District by demolishing the compound wall and Arch, Pending disposal of WP No. 5643 of 2023, 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

"The grievance of the writ petitioner is that without obtaining any permission as required under law from the 2nd respondent – District Collector, respondent No.6 – Welfare Society has been making an effort to construct a shopping complex within the premises of the burial ground which is a communal property within the limits of the 3rd respondent – Municipality and that already marking has been given as shown in the photographs which are produced by the petitioner and that the 7th respondent has laid the foundation for construction of the said shopping complex.

When the property in question is the communal property within the limits of 3rd respondent – Municipal Corporation earmarked for use by the public as burial ground, no construction of any shopping complex is legally permissible in the said premises by private parties like respondent No.6. In fact, even as can be seen from the proceedings of the Commissioner of 3rd respondent – Municipal Corporation, dated 02.02.2023, it is clearly stated in it that as it is a religious issue that no construction should be made in the said land without prior permission of the District Collector – cum – Magistrate.

Learned Standing Counsel for respondent No.3 would request time to seek instructions whether any such permission was accorded by the 2nd respondent – District Collector to respondent No.6 to construct any such shop rooms in the burial ground or not.

Therefore, in the said facts and circumstances of the case, there shall be interim direction to respondent Nos.2 to 5 not to permit respondent No.6 to

construct any shopping complex in the burial ground covered by Sy.No.396/1 of Ponnur Municipality by demolishing the existing compound wall and arch. Respondent Nos.6 and 7 are also directed not to proceed further to construct any such shopping complex in the burial ground in the above land and not to demolish the existing compound wall and arch, till the next date of hearing."

Sd/- M. PADMALATHA
ASSISTANT REGISTRAR

//TRUE COPY//

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SECTION OFFICER

To,

1. Sri Shaik Mohammad @ Mamu, President, Ponnur Anjuman-E-Eslamia Welfare Society, Beside Abdul Kalam Shadi Khana, 4th Ward, Ponnur Municipality, Guntur District.
2. Sri Kilari Venkata Rosaiah, Member of Legislative Assembly, Ponnur Assembly Constituency, Ponnur, Guntur District.(Addressess 1 to 2 by RPAD- along with a copy of petition and affidavit)
3. One CC to SRI. VUTUPALLI RAJANNA Advocate [OPUC]
4. Two CCs to GP FOR MUNICIPAL ADMN URBAN DEV ,High Court Of Andhra Pradesh. [OUT]
5. Two CCs to GP FOR REVENUE ,High Court Of Andhra Pradesh. [OUT]
6. One CC to SRI. M MANOHAR REDDY , Standing Counsel [OPUC]
7. One CC to SRI. S ARIFULLA, Standing Counsel [OPUC]
8. One spare copy.

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HIGH COURT

CMRJ

DATED:07/03/2023

LIST AFTER THREE WEEKS

IA No. 1 OF 2023
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INTERIM DIRECTION

