

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI

MAIN CASE: W.P.No.9160 of 2025

PROCEEDING SHEET

Sl.No.	DATE	ORDER	Office Note
	07.04.2025	<u>NVJ,</u> Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue appearing for the respondents. The case of the petitioner is that, the petitioner is the absolute owner and possessor of land admeasuring to an extent of 850 square yards in Survey No. 3/2A2 of Thatichetlapalem, Dondaparathi Village. When the respondents herein are interfering with the petitioner's peaceful possession and enjoyment of the said land, the petitioner preferred a suit, O.S. No. 1658 of 2005, before the Court of the II Additional Junior Civil Judge, Visakhapatnam. Wherein the court below, after hearing the matter, was pleased to pass a judgment and decree dated 21.10.2009 in favour of the petitioner, granting a permanent injunction restraining the respondents from interfering with the petitioner's peaceful possession of the land admeasuring to an extent of 850 square yards in Survey No. 3/2A2 of Dondaparathi Village. On the other hand, the learned Assistant	

		Government Pleader for Revenue, appearing for the respondents, submits that the impugned notice issued by the 3rd respondent, i.e., the Tahsildar, dated 01.04.2025, was issued under the provisions of Section 6 of the Andhra Pradesh Land Encroachment Act, 1905, in respect of the land in Survey No. 4, and not in relation to the extent of 850 square yards in Survey No. 3/2A2. He further submits that the respondent authorities are not taking any steps for the removal of structures situated within the subject property of the petitioner, admeasuring to an extent of 850 square yards in Survey No. 3/2A2 of Dondaparathi Village. The respondents are only concerned with protecting the Government land situated in Survey No. 4 of Thatichetlapalem, Dondaparathi Village. He also submits that to resolute the dispute, the survey and demarcation should be conducted in the presence of an Advocate Commissioner to be appointed by this court. The learned counsel for the petitioner further submits that, in the absence of specific demarcation, the respondents cannot be permitted to interfere with the peaceful possession and enjoyment of the subject land, since the petitioner was declared as the absolute owner and possessor of the said property by way of the	
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		decree and judgment passed by the Court below in O.S. No. 1658 of 2005, dated 21.10.2009. he also express his readiness for appointment of an Advocate Commissioner and to bear expenses as well as transport and accommodation charges as may be granted by this court. Having heard the respective counsel, this court is of the considered opinion that it is appropriate and necessary to appoint an Advocate Commissioner to note down the physical features of the subject land and its exact survey number after hearing survey and demarcation for proper adjudication of the case in hand in the interest of justice. Further, the Mandal surveyor concerned is directed to conduct a survey and demarcation of the petitioner's subject property admeasuring to an extent of 850 square yards in Survey No. 3/2A2 of Dondaparthi Village in the presence of the petitioner, respondents and the Advocate Commissioner to be appointed by this court. The learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue appearing for the respondents agreed for co-operation by their sellers and their parties concerned with the Advocate Commissioner. Accordingly, an Advocate Commissioner is	
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		hereby appointed with the following directions:- (i) Sri K.N. Krishna Kumar (High Court Advocate), Flat No.TF 2 Vijayalakshmi Enclave, Tadepalli near Lootharan Church, Guntur District, 522501, Cell No.9581533931, is appointed as an Advocate Commissioner to oversee the demarcation and survey of the petitioner's land. (ii) The learned Advocate Commissioner shall execute the warrant after giving prior notices to all the parties concerned, if any, and shall return the warrant along with a detailed report. (iii) The learned Advocate Commissioner is further directed to be present at the time of survey to be conducted by the surveyor and required staff, along with the petitioner and the respondents. (iv) Respondents 2 to 4, as well as the petitioner, are directed to provide the assistance of a surveyor to the Advocate Commissioner for the purpose of conducting the survey and demarcation of	
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		the subject property. (v) The Advocate Commissioner shall also provide an opportunity of hearing to all the concerned parties and complete the entire process within a period of six (6) weeks. Thereafter, the Advocate Commissioner shall submit a detailed report with respect to the subject property within a period of two (2) weeks. (vi) The learned Advocate Commissioner's fee is fixed at Rs. 35,000/- (Rupees Thirty-Five Thousand only), to be paid by the petitioner. In addition, the petitioner shall arrange and bear the transport expenses for a four-wheeler for the Advocate Commissioner. The respondent Nos.2 and 3 shall provide decent accommodation if necessary and provide all men required for execution of the same. (vii) The petitioner shall bear all other incidental expenses to be incurred by the learned Advocate Commissioner. (viii) Registry is directed to serve copy of this order to the learned Advocate Commissioner as expeditiously as	
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		possible. In the meantime, both parties are directed to maintain status quo obtaining as on today in respect of the subject property. Post the matter after eight (08) weeks. klk NV, J	
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