



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

[3331]

**TUESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 24076/2022

Between:

1. LUKKA GUDARU VENKAIAH, S/O. KRISHNA MURTHY, HINDU AGED 43 YEARS, R/O.D.NO.4-86/1, NAGARAM VILLAGE A MANDAL, GUNTUR (BAPATLA) DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY PRINCIPLE SECRETARY, PANCHAYATH RAJ DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2. THE DISTRICT COLLECTOR, GUNTUR (BAPATLA) DISTRICT,

3. THE DISTRICT PANCHAYATH RAJ OFFICER, GUNTUR (BAPATLA) DISTRICT,

4. THE DIVISIONAL PANCHAYATH RAJ OFFICER, GUNTUR (BAPATLA) DISTRICT,

5. THE MANDAL PARISHAD DEVELOPMENT OFFICER, NAGARAM MANDAL, GUNTUR (BAPATLA) DISTRICT

6. NAGARAM GRAM PANCHAYATH, REP. BY ITS PANCHAYATH SECRETARY, NAGARAM VILLAGE ET MANDAL, GUNTUR (BAPATLA) DISTRICT,

7. THE EXECUTIVE ENGINEER, PANCHAYAT RAJ DEPARTMENT, NAGARAM MANDAL, GUNTUR (BAPATLA) DISTRICT

8. THE SUPERINTENDENT ENGINEER, ROADS ET BUILDING, BAPATLA, GUNTUR DISTRICT

9. THE DEPUTY ENGINEER, ROADS AND BUILDING, REPALLE,

GUNTUR DISTRICT

...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 directing the respondents not to make any construction including Village Secretariat on a public road or road margin on Repalle-Bapatla R&B Road in S.No.278/5 of Nagaram village and mandal, Guntur (Bapatla) District, declaring their action of proposal of construction of village secretariat in the said land as illegal and ultra vires to the provisions of Articles 14 and 21 of the Constitution of India and also direct the respondents to demolish the construction if already made, while directing not to proceed further and pass

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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 all further proceedings of construction of Village Secretariat or any other construction in the road margin on Repalle-Bapatla R and B Road in S.No.278/5 of Nagaram village and mandal, Guntur (Bapatla) District, during the pendency of the writ petition before this Hon'ble Court and to pass

Counsel for the Petitioner:

1.HABIBULLA SHAIK

Counsel for the Respondent(S):

1.GP FOR PANCHAYAT RAJ RURAL DEV

2.Mattegunta.Sudhir, Standing Counsel For Z.P.Ps, M.P.Ps, Gram Panchayats

The Court made the following:

::ORDER ::

The above writ petition was filed assailing the action of the respondent authorities in intending to construct a Village Secretariat on the road margin in

Repalle to Bapatla R & B road in Sy.No.278/5 of Nagaram Village and Mandal, Guntur District, as illegal and arbitrary.

2. Heard Sri Shaik Habibulla, learned counsel for the petitioner, and Sri Rajesh Kumar, learned Assistant Government Pleader for Panchayat Raj appeared for respondents 1 to 4, 7, 8 & 9, and Sri Hruthik, learned counsel representing Sri M. Sudhir, learned Standing Counsel, appeared for respondents 5 & 6.

3. In the affidavit filed in support of the writ petition, it was pleaded that one Mathi Nagamalleswaramma W/o Venkata Swamy, gifted Ac.0.05 cents in D.No.212/3C, 212/3D of Nagaram Village and Mandal in favour of the Government, for the construction of the Panchayat building. Thereafter, the Panchayat office building was constructed on the said site. However, the same is not operational. While the matter stood thus, the respondent authorities intend to construct the Village Secretariat on the R&B road margin situated in Sy.No.278/5 of Nagaram Village.

4. Learned counsel for the petitioner would submit that the construction of the Village Secretariat in the road margin will create traffic congestion, and the same is impermissible.

5. Sri Hruthik, learned counsel representing Sri M. Sudhir, learned Standing Counsel submitted the written instructions of respondent No.5. As seen from the written instructions, it was stated as follows:

“It is humbly submitted that the Construction of the mentioned “Village Secretariat” is originally constructed in Sy No.278/5 at an Extent of Ac.0.10cents which is classified as “road”. The Village Secretariat building constructed just adjacent to the road margin in Sy.No.278/5 and also there is no obstruction for ingress and egress to the R&B Road.

It is humbly submitted that the said Village Secretariat building is functioning presently in the Old Gram Panchayat Office Building,

Nagaram Village. This Gram Panchayat is ready to demolish the said constructed part of the Village Secretariat which was constructed upto the basement level coupled with the directions of this Hon'ble Court."

6. The point for consideration is:

'Whether the intention of respondent authorities to construct the Village Secretariat in the road margin, is permissible?'

7. It is a settled principle of law that the road margin forms part of the road, and it is presumed to be dedicated to the public. The public is entitled to use the entire road and road margins. The road margins will allow pedestrians to pass and re-pass. The obstruction, if any, will impede free movement. In other words, no obstruction should be caused for the free flow of traffic, including the pass and re-pass of the public. It is also the duty of the State to maintain the roads, including road margins and ensure no trespass.

8. In **Sataraboyina Someswara Rao v. Sangasetti Tirupathamma**¹, it was observed as follows:

"In my opinion, the said principle also involves public policy. No person can be allowed to occupy a portion of a public road, a highway, or even a public pathway, and argue that even after his encroachment there is sufficient space left for public to pass by. He cannot be the judge of the requirements of the public, nor can he decide for himself what extent must be left for public use and what extent must be occupied by him. At this rate, anybody will be free to occupy a portion of such public streets, highways and roads with the specious argument that there is still space left for public to pass by. Slowly these encroachments may become permanent. It is evident that such a course cannot be permitted. It is true that Section 39 expressly speaks of a discretion in the court in the matter of granting a mandatory injunction; but, the said discretion has to be exercised in accordance with law and having regard to the facts and circumstances of a given case. May be that granting a mandatory

¹ 1989 (1) ALT 36

injunction would result in eviction of the poor people living in the huts, or the displacement of the school which is said to be running there for the last several decades; but that can be taken care of by making appropriate directions.”

9. Thus, as seen from the extracted portion, referred *supra*, it is clear that in respect of public road or highway or a public pathway, every member of the public has right to use the land and no person can be allowed to occupy the portion of such public road, highway or pathway. The respondents are obligated to protect the rights of the public.

10. In fact, as seen from the instructions, the Village Secretariat is functioning from the old Panchayat Secretariat building of Nagaram Village, and the Gram Panchayat is ready to demolish the said constructed part of the Village Secretariat, which was constructed up to the basement level.

11. Given the facts and circumstances of the case, the Writ Petition is disposed of, directing the respondents not to construct the Village Secretariat / any further structure on the road margin, which is meant for passing and re-passing of the public. Respondent No.5 shall ensure the removal of the constructed portion, as indicated in the written instructions, as expeditiously as possible. No order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Date: 10.02.2026
TVN

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THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 24076 of 2022

Date: 10.02.2026
TVN