

APHC010435642019



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

[3333]

MONDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 20929 OF 2019

Between:

1. ADABALA NARASIMHA RAO, S/O.SRI A.MARESWARA RAO HINDU,
AGED 48 YEARS OCC-CULTIVATION, R/O.DOOR NO.1-14
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH
2. GUBBALA SATYANARAYANA, S/O.SRI G.SURYANARAYANA
HINDU, AGED 35 YEARS OCC-CULTIVATION, R/O.DOOR NO.1-54
R/O.L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH
3. MIRIYALA GANDHI VARA PRASAD, S/O.SRI M.SUBBA RAO HINDU,
AGED 60 YEARS OCC-CULTIVATION, R/O.DOOR NO.1-61
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH
4. MIRIYALA NARASIMHA RAO, S/O.SRI M.VENKATARAYUDU HINDU,
AGED 68 YEARS OCC- CULTIVATION, R/ O.DOOR NO.1-67
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH
5. MIRIYALA TRIMURTHULU, S/O.SRI .VENKATA RAYUDU HINDU,
AGED 60 YEARS OCC-CULTIVATION, R/ O. DOOR NO.1-66
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH
6. MIRIYALA SATYANARAYANA, S/O.SRI M. VENKATA RAYUDU
HINDU, AGED 76 YEARS OCC-CULTIVATION, R/O.DOOR NO.1-63/1
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH

7.MIRIYALA BALA NAGESWARA RAO, S/O.SRI M.NARASIMHA RAO
HINDU, AGED 43 YEARS OCC- CULTIVATION, R/ O. DOOR NO.1-67
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH

8.GUTTULA VENKATESWARLU, S/O.SRI G.BHASKARA RAO HINDU,
AGED 42 YEARS OCC-CULTIVATION, R/O.DOOR NO.1-55
L.B.CHARLA VILLAGE, NARSAPUR MANDAL WEST GODAVARI
DISTRICT, ANDHRA PRADESH

...PETITIONER(S)

AND

1.THE STATE OF ANDHRA PRADESH, REP.BY ITS PRINCIPAL
SECRETARY REVENUE DEPARTMENT A.P. SECRETARIAT,
VELAGAPUDI AMARAVATHI, GUNTUR DISTRICT ANDHRA
PRADESH

2.THE SUB COLLECTOR, NARSAPUR, WEST GODAVARI DISTRICT
ANDHRA PRADESH

3.THE TAHSILDAR, NARSAPUR, W.G.DISTRICT ANDHRA PRADESH

...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 a writ of mandamus declaring the Notice in Roc.No.302/2019 (DT) dt.17-12-2019 issued by the 3rd respondent under Sec.6 of the A.P.Land Encroachment Act (Madras Act 3 of 1995) by directing the petitioners to vacate the land admeasuring Ac.0.06, 0.08, 0.50, 0.17, 0.17, 0.17, 0.15 and 0.08 cents respectively of the petitioners out of Ac.5.34 Cents in R.S.No.202 of L.B.Charla Village, Narsapuram Mandal, West Godavari District as illegal, arbitrary, contrary to law, violative of principles of natural justice and violative of Art.19 and 300A of the Constitution of India consequently to set aside the said 8 notices

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 grant stay of all further proceedings in pursuance of the Notices in

Roc.No.302/2019 (DT) dt.17-12-2019 issued by the 3rd respondent by directing to vacate their respective extents of land pending disposal of the above 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 implead the proposed 4th respondent as 4th respondent in WP No.20929/2019 as well as in IA No.1/2019 and pass

IA NO: 1 OF 2020

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 order granted on 21.12.2019 in I.A No. 1 of 2019 in W.P No. 20929 of 2019

Counsel for the Petitioner(S):

1.TURAGA SAI SURYA

Counsel for the Respondent(S):

1.GP FOR REVENUE (AP)

2.Y KOTESWARA RAO

The Court made the following:

THE HONOURABLE SMT JUSTICE V.SUJATHA**WRIT PETITION NO: 20929 OF 2019****ORDER:-**

This Writ Petition is filed questioning the Notice in Roc.No.302/2019 (DT) dated 17.12.2019 issued by the Respondent No.3 under Section 6 of the A.P.Land Encroachment Act (Madras Act 3 of 1995) by directing the Petitioners to vacate the land admeasuring Ac.0.06, 0.08, 0.50, 0.17, 0.17, 0.17, 0.15 and 0.08 cents respectively of the Petitioners out of Ac.5.34 cents in R.S.No.202 of L.B.Charla Village, Narsapuram Mandal, West Godavari District as illegal and arbitrary.

2. Heard learned counsel for the Petitioners and learned Assistant Government Pleader for Revenue for the Official Respondents.

3. The Petitioners herein claimed to be the owners of various extents of land cited supra in R.S.No.202 of L.B.Charla Village, Narsapuram Mandal, West Godavari District. Aggrieved by the impugned notice in Roc.No.302/2019 (DT) dated 22.11.2019 issued by the Respondent No.3 under Section 7 of A.P.Land Encroachment Act stating that the Petitioners are in unauthorized occupation of the Gramakantam land in R.S.No.202 of L.B.Charla Village, Narsapuram Mandal, West Godavari District and directed the Petitioners to show cause as why the Petitioners should not be evicted from the subject land within a period of one week from the date of receipt of the said notice. Aggrieved by which, the present Writ Petition came to be filed.

4. When the Writ Petition came for admission on 21.12.2019, this Court passed the following interim order:

“Having regard to the facts & submissions and as the possession of the petitioners over the subject property is admitted, there shall be interim stay of the impugned proceedings until further orders.”

5. The Respondent No.3 filed Counter-Affidavit duly stating that an extent of Ac.5.34 cents in R.S.No.202 of Lingaboyinacherla Village, Narsapur Mandal is classified as Government Poramboke (Village Site) as per revenue records and belongs to the Government. In view of the Government Orders, vide G.O.Ms.No.367, Revenue (Assign-1) Department, dated 19.08.2019, Government of Andhra Pradesh, survey was conducted in respect of R.S.No.202, wherein it has been found that an extent of Ac.5.19 cents in R.S.No.5.34 is a Government Poramboke land. Hence, after following due procedure, notice under Section 7 of A.P.Land Encroachment Act, III of 1905 was issued to the Petitioners calling for objections. After receipt of notices, the Petitioners have filed their objections. After inspecting the land, it was found that the Petitioners were in unauthorized possession of Government land without valid permission from the Government. Hence, the objections were not considered and issued notice under Section 6 of Madras Act-III of 1905, dated 17.12.2019 to the Petitioners.

6. On perusal of the impugned notice, it is an admitted fact that the notices were issued claiming that the land, which has been in possession of the Petitioners as a gramakantam land, which is admittedly would be under

the control of Gram Panchayat. However, the said notices were issued by the Tahsildar i.e Respondent No.3 herein without having any jurisdiction or authority. Under similar circumstances, wherein notice was issued by Revenue Authorities under A.P.Land Encroachment Act, even though the land was classified as Gramakantam land, this Court in W.P.No.6972 of 2020 passed an order dated 29.04.2020, which reads as follows:

“Even according to G.O.Ms.No.187, dated 27.05.2015, gramakantam land is deemed to have been vested on Gram Panchayat in terms of Section 53, unless notification is issued under Section 58(2) of A.P.Panchayat Raj Act, divesting the land on Government from Gram Panchayat. But no such notification was issued, till date. Hence, respondents have no jurisdiction to take steps to evict the petitioner, describing him as encroacher by invoking provision of the Act. At best Gram Panchayat may take appropriate steps in terms of G.O.Ms.No.187, dated 27.05.2015. Hence, notice under Section 7 and Section 6 of the Act, by respondents is without jurisdiction and the same is liable to be set aside”.

7. In view of the same, as the notices were issued by the Respondent No.3 without having jurisdiction or authority, though the land is a gramakantam, which is under the control of Gram Panchayat, the impugned notice is liable to be set aside.

8. Accordingly, the Writ Petition is allowed, while setting aside the impugned notice dated 17.12.2019 issued by the Respondent No.3 by leaving it open to the Respondents to initiate appropriate action in accordance with law, if so advised. There shall be no order as to costs.

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

JUSTICE V.SUJATHA

Date: 15.06.2026

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