



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

[3457]

SATURDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 5642/2017

Between:

1.KASUKURTHI VENKATESWARLU,, S/O KOTAIAH, AGED ABOUT 67 YEARS, R/O FLAT NO.301, SAROJINIDEVI APARTMENTS, SANTHAPETA, ONGOLE, PRAKASAM DISTRICT.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH M A U D DEPARTMENT, SECRETARIAT BUILDINGS, SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT, REP. BY ITS PRINCIPAL SECRETARY.

2.THE ONGOLE MUNICIPAL CORPORATION, ONGOLE, REP. BY ITS COMMISSIONER.

3.UNGARALA PRABHAKARA RAO DIED AS PER L R R5, S/O KOTAIAH, AGED ABOUT 60 YEARS, D/O. 60-144 R/O ANNAVARAPADU. ONGOLE, PRAKASAM DISTRICT.

4.KOMMURI KRISHNA CHAITANYA, S/O MURALI KRISHNA, AGED ABOUT 50 YEARS, R/O D.NO.50-1-144 (B), ANANDARAO ROAD, ONGOLE, PRAKASAM DISTRICT.

5.UNGARALA SUBBARAMAMMA, W/O LATE UNGARALA PRABHAKARA RAO, AGED ABOUT 65 YEARS, R/O D.NO.60-144, ANNAVARAPADU, POTHURAJUPALEM, ONGOLE , PRAKASAM DISTRICT. R5 IS BROUGHT ON RECORD AS L.R OF THE DECEASED 3RD RESPONDENT AS PER THE COURT'S ORDER DT.27.11.2025 IN I.A.NO.01 OF 2025.

...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 2nd respondent in not taking action against the 3rd and 4th respondents in making illegal and unauthorized construction on 20'ft road and also on open space earmarked in a Layout It L.P.No.98/61 in Sy.No.107 of Annavarapupadu, Ongole, Prakasam District is

illegal, arbitrary and consequently direct the 2nd respondent to remove the illegal and unauthorized construction made by the 3rd and 4th respondents on the 20' ft road in Layout in LP.No.98/61 in Sy.No.107 of Annavarapupadu, Ongole, Prakasam District and pass

IA NO: 1 OF 2017(WPMP 6886 OF 2017)

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 direct the 2nd respondent to take necessary steps forthwith pursuant to the Notice in Rc.No.7108/2014/G2, dated 28.1.2015 issued by the Assistant City Planner, Ongole Municipal Corporation against the 3rd and 4th respondents pending disposal of the, above writ petition and 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 grant leave to the petitioner respondent No. 2 in WP No. 5642 of 2017 to file the counter affidavit in the above writ petition and pass

IA NO: 1 OF 2025

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 bring the Legal Representative as propose respondent No.5 as legal heir of the 3rd respondent in W.P.No.5642 of 2017 in the interest of justice and to pass

Counsel for the Petitioner:

- 1.V V N NARAYANA RAO

Counsel for the Respondent(S):

- 1.
- 2.M R S SRINIVAS
- 3.GP-MUNCIPAL ADMN AND URBAN DEV(AP)
- 4.A S C BOSE (SC FOR MUNICIPAL CORPORATIONS AP)
- 5.KOPPARTHI SUMATHI

The Court made the following:

THE HONOURABLE SRI JUSTICE HARINATH.N**WRIT PETITION No.5642 of 2017****ORDER:**

1. The petitioner is aggrieved by in-action on the part of the respondent No.2 in taking action against the illegal and unauthorised construction of the respondent Nos.3 and 4 on 20 feet road and also on the open space earmarked in a layout in LP.No.98/61 in Sy.No.107 of Annavarapupadu, Ongole, Prakasam District.
2. The learned counsel for the petitioner submits that the petitioner has purchased Plot Nos.20 and 21 in Sy.No.107/2 in the approved layout. Each plot is measuring 375 square yards and registered sale deeds were executed in the year 1995. It is submitted that towards the western side of Plot No.20 there is a 20 feet road and that the respondent Nos.3 and 4 have no right and title over the road, however, occupied the same and also resorted to occupying the open space of the layout.
3. The petitioner submitted his complaint to the authorities about the unauthorised and illegal construction of respondents Nos 3 and 4. It is submitted that the Town Surveyor conducted survey and determined that somebody had made construction of the 20 feet road and also resorted to construction in the open space.
4. It is submitted that the respondent Nos.3 and 4 were called upon vide notice dated 28.01.2015 and 28.06.2015 to produce title documents along with the building plan. It is submitted that the respondents have

not produced any document nor responded to the said notices. It is also submitted that the respondents have failed in their duty in reclaiming the open space and public road.

5. The 2nd respondent has filed a counter and it is submitted that, based on the Surveyor report, the respondent Nos.3 and 4 were called upon to submit their building permission and title documents. In pursuance of the said notices the respondent Nos.3 and 4 submitted their ownership document along with building permission details. It is submitted that the respondent Nos.3 and 4 also submitted that copies of the judgments passed in OS.No.228 of 2005 and in appeal suit vide AS.No.99 of 2013, and copy of the second appeal vide SA.No.1038 of 2016. It is submitted that the dispute between the petitioner and the respondents is subjudis before the Court.
6. The 4th respondent has filed a counter, it is submitted that the 4th respondent is a subsequent purchaser from the 3rd respondent, and the predecessors in title obtained building permission in the year 1999. It is also submitted that the petitioner has suppressed the dismissal of the OS.No.228 of 2005 and AS.No.99 of 2013 filed by the petitioner.
7. The 4th respondent has also filed a reply to the counter filed by the 2nd respondent and it is submitted that the petitioner is a habitual litigant and that the petitioner never received any notice of the alleged survey which was conducted by the Town Surveyor.

8. The 4th respondent further had submitted that OS.No.117 of 2014 on the file of Principal Junior Civil Judge, Ongole, filed against the 2nd respondent was decreed on 11.11.2019.
9. This Court on 13.02.2025 appointed an Advocate Commissioner to submit his report after verification whether there is a 20-foot road on the western side of plot No.20 and whether a house is constructed in a open space and the Town Surveyor was directed to conduct a resurvey. The Advocate Commissioner submitted his report, and also the objections are filed by the 4th respondent to the report of the Advocate Commissioner.
10. Heard the learned counsel for the petitioner, learned Standing counsel for the 2nd respondent and the learned counsel for the respondent No.4. Perused the material on record.
11. The point for consideration in the present writ petition is whether the petitioner is entitled to grant of relief as prayed for ?
12. As seen from the counters submitted by the respondents Nos 2 and 4, the respondents have referred to OS.No.228 of 2005 and AS.No.99 of 2013 and SA.No.1038 of 2016. It is pertinent to mention that the suit, appeal and the second appeal were filed by the petitioner. However, there is no whisper in the affidavit of the writ petition about those legal proceedings.

13. The petitioner has filed a suit for recovery of possession of the plaint schedule property and a consequential direction to the 1st defendant to vacate and deliver the possession after removing the illegal constructions. The petitioner also had contended that the respondent Nos.3 and 4 had constructed without obtaining permission and that the respondent Nos.3 and 4 have no right, title and interest over the land occupied by them.
14. As seen from the record, the respondent No.3 has purchased the property vide a registered sale deed, and the respondent No.4 had purchased the same vide a registered sale deed from respondent No.3. During the pendency of the writ petition, the 3rd respondent passed away, and his wife is added as respondent No.5.
15. As seen from the judgment passed in OS.No.228 of 2005 and the judgment passed in AS.No.99 of 2013, the trial Court has categorically held that there is no encroachment of the defendants and that the plaintiff has failed to establish any valid grounds for the grant of relief. The 4th respondent in the reply also refers to OS.No.117 of 2014 on the file of Principal Junior Civil Judge, Ongole, filed against the 2nd respondent, the suit was decreed on 11.11.2019, rejecting the claim of the 2nd respondent. The said order has attained finality as no appeal is preferred by the 2nd respondent. The respondent No.2 cannot take any action against the respondent Nos.3 and 4, more so when judgments in OS.No.228 of 2005 and AS.No.99 of 2013 are in favour of the

respondent Nos.3 and 4. That apart, the respondents Nos 3 and 4 are claiming title and ownership by virtue of registered sale deeds. In such circumstances, without initiating proceedings seeking cancellation of registered sale deeds and succeeding in the said proceedings, the petitioner cannot seek any relief from this Court by way of the present writ petition.

16. The petitioner has willfully suppressed the filing of OS.No.228 of 2005, AS.No.99 of 2013, and SA.No.1038 of 2016 for reasons better known to the petitioner. The claim of the petitioner before the trial Court in the suit and the claim of the petitioner in the present writ petition are identical. The petitioner, having failed to achieve the desired results in the suit, has filed the present writ petition while maintaining SA.No.1038 of 2016 parallelly before this Court.
17. The petitioner has approached this Court by swearing to an affidavit suppressing various facts, and a party guilty of approaching the Court by suppression of facts cannot claim any equities or relief. On these grounds, the writ petition deserves to be dismissed.
18. Accordingly, the writ petition is dismissed. No costs.

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

JUSTICE HARINATH.N

Dated 31.01.2026
KGM

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION No.5642 OF 2017
Dated 31.01.2026