



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

[3330]

MONDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 26609/2023

BETWEEN:

1. HARIJANA MUTHAMMA, W/o. NARASANNA, AGED ABOUT 45 YEARS, OCC: CULTIVATION, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY, REVENUE DEVELOPMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
2. THE DISTRICT COLLECTOR, KURNOOL DISTRICT, KURNOOL.
3. THE SUBCOLLECTOR, ADHONI, NELLORE DISTRICT.
4. THE TAHASILDAR, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
5. THE VILLAGE REVENUE OFFICER, SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
6. STATION HOUSE OFFICER, MADHAVARAM POLICE STATION, KURNOOL DISTRICT.
7. LAKSHMI, W/O DEVADASU, (PLOT No.1) AGED ABOUT 58 YEARS, OCC:DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
8. SWAMYDASU, S/o.HANUMANTHAPPA, (PLOT No.2) AGED ABOUT 75 YEARS, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.

9. LAKSHMI, W/O JOJAPPA, (PLOT NO.3) AGED ABOUT 50 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
10. SANTHAMMA, W/O JAKIRIAAH, (PLOT No.4) AGED ABOUT 55 YEARS, OCC:DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
11. SAIMATHA, W/o. YESAIAH, (PLOT No.6) AGED ABOUT 53 YEARS, OCC DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
12. KARNAMMA, W/o. POULAIAH, (PLOT No.7) AGED ABOUT 55 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
13. SAROJAMMA, W/O MARIYAPPA, (PLOT No.29) AGED ABOUT 56 YEARS, OCC:DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
14. MANIKYAMMA, W/O ANTHONY, (PLOT No.32) AGED ABOUT 60 YEARS, OCC:DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
15. AROGYA, S/o. DHARMANNA, (PLOT No.33) AGED ABOUT 40 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
16. JAKRAIAH, S/o. JAYAPPA, (PLOT No.34) AGED ABOUT 40 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
17. SANTHAMMA, W/o. MATTAASH, (PLOT No.35) AGED ABOUT 60 YEARS, OCC:DAILY WAGE, R/O SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
18. ARLAPPA, S/o. ERAPPA, (PLOT No.36) AGED ABOUT 70 YEARS, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
19. MARIYAMMA, W/o. SAMELU, (PLOT No.81) AGED ABOUT 55 YEARS, OCC: DAILY WAGE, R/O SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
20. LALITHAMMA, W/o. LAZER, (PLOT No.87) AGED ABOUT 60 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.

21. JAYAMMA, W/o. DEMIS, (PLOT No.89) AGED ABOUT 62 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
22. SUSEELAMMA, W/O BALAPPA, (PLOT No.90) AGED ABOUT 55 YEARS, OCC: DAILY WAGE, R/O SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
23. ALLAPPA, S/o. HANUMANTHAPPA, (PLOT No.91) AGED ABOUT 68 YEARS, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
24. VOJJAMMA, W/o. DIDDI HUSSANI, (PLOT No.92) AGED ABOUT 65 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
25. LURTHAMMA, W/o. AROGYAPPA, (PLOT No.94) AGED ABOUT 58 YEARS, OCC DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
26. MARTHAMMA, W/o. JESAPPA, (PLOT No.95) AGED ABOUT 65 YEARS, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
27. JESAPPA, S/o. THAYAPPA, (PLOT No.96) AGED ABOUT 57 YEARS, OCC: DAILY WAGE, R/o. SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT.
28. SELVARAJU, S/o. NARSUDU, (PLOT No.97) AGED ABOUT 48 YEARS, OCC: DAILY WAGE, R/o SHOWLAHALLI VILLAGE, MANTRALAYAM MANDAL, KURNOOL DISTRICT. RR 7 TO 28 ARE IMPEADED AS PER COURTS ORDER DT.12.12.2025 IN I.A.No.1 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 respondents No. 4 is issuing the Eviction order vide Rc. (A) 284/2022 dated 15.09.2023 under section 6 of AP Land Encroachment Act, 1905 and Order Under section 145 of CRPC dated 03.07.2023 without considering explanation as illegal and arbitrary and against the orders of this Hon'ble Court in WP No. 18955 of 2015 dated 13.12.2022 and consequently to suspend the Order dated 15.09.2023 and Order dated 03.07.2023 by directing the Respondent 4 to not to interfere the peaceful possession of the petitioner land in an extent of Ac. 2.89 cents situated at Showlahalli village, Matralayam Mandal and pass orders.

Counsel for the Petitioner:

1.KALE VIJAYA RAJU

Counsel for the Respondent(S):

1.GP FOR HOME

2.GP FOR REVENUE

3.GANTA EDIGA RAKESH GOUD

The Court made the following:

ORDER:

The present Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents No.4 in issuing the Eviction order vide Rc.(A) 284/2022 dated 15.09.2023 under Section 6 of AP Land Encroachment Act, 1905 and Order under Section 145 of CRPC dated 03.07.2023 without considering explanation as illegal and arbitrary and against the orders of this Hon’ble Court in WP No.18955 of 2015 dated 13.12.2022 and consequently to suspend the Order dated 15.09.2023 and Order dated 03.07.2023 by directing the Respondent 4 to not to interfere the peaceful possession of the petitioner land in an extent of Ac.2.89 cents situated at Showlahalli village, Mantralayam Mandal and pass such other order or orders.....

2. The present Writ Petition is filed challenging the orders of the 4th respondent-Tahsildar issued vide proceeding in RC No.284/22 dated 15.09.2023, wherein, the 4th respondent directed the petitioner herein to evict the land in Survey No.19/B1A to an extent of Ac.2.89 cents of Showlahalli village, Mantralayam Mandal, inter alia observed that if the petitioner unauthorizedly reenters and occupies the above land, which is already evicted, shall be punishable with imprisonment up to 6 months or fine up to Rs.1000/- or with both U/Sec-6(3) of A.P. Land Encroachment Act, 1905. The said order was under challenge on the

ground that the petitioner has offered explanation to the notice issued under Section 7 of the A.P. Land Encroachment Act, 1905 (for short hereinafter referred to as the Act), dated 03.07.2023 and the 4th respondent has not considered the explanation and delivered the impugned proceedings. Hence, prayed to set aside the impugned proceedings and to remand back to the 4th respondent-Tahsildar to pass afresh orders, after considering the explanation officered by the petitioner dated 11.07.2023.

3. On careful consideration of the explanation offered by the petitioner, it is emphasised that the petitioner is having land in Sy.No.19/B1A to an extent of Ac.2.89 cents in Showlahalli village, Mantralayam Mandal and DKT Patta was granted in R.Dis.No.50/DAR/10/95 dated 05.10.1995 and previously his ancestral are also in possession and enjoyment of the same. In the year 2015, when the 4th respondent threatened to evict the petitioner from the possession, the petitioner filed W.P. No.18955/2015. The erstwhile High Court of Andhra Pradesh vide order dated 13.12.2022, directed the respondents not to interfere with the peaceful possession and enjoyment of the land without following due process of law. Without considering these aspects, the 4th respondent has passed impugned proceedings under Section 6 of the Act.

4. Learned counsel appearing for the unofficial respondents would submit that the Government has issued pattas to the unofficial respondents herein and they are in possession of the property. The 4th respondent admitted that the petitioners are in the possession. Therefore, the contention raised by the unofficial respondents that they are in the possession of the property is far from the truth.

5. The 4th respondent-Tahsildar has filed the counter affidavit and it is stated that the necessary enquiry was conducted in the village, and the unofficial respondents who are the beneficiaries i.e. house site patta holders, who attended the enquiry and stated that they are ready to occupy the house sites allotted to them, if the Government come forward to handover the possession of the land. The statement that “the allegations of the petitioner’s explanation were ignored” was incorrect. The 4th respondent has given notice under Section 7 of A.P. Land Encroachment Act, 1905 to the petitioner who has encroached the acquired land, but never entered into the land unlawfully as alleged by the petitioner. The petitioner cannot claim her possession by virtue of longstanding as the same is done, without knowledge of the Government and without any valid documents, petitioner can only be treated as illegal encroacher. And the patta said to have been in possession of the petitioner, has no validity, as it was not implemented in revenue records. Non implementation of revenue accounts is proved

beyond doubt that the said account is still in notional khata. Hence, prayed to dismiss the Writ Petition.

6. On perceiving the impugned order that it does not indicate that the explanation offered by the petitioner herein, has been considered. As per the judgment of the Apex Court in ***Mohindhr Singh Gill and another v. Chief Election Commissioner, New Delhi and others***¹, when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned therein and cannot be supplemented by fresh reasons in the shape of counter affidavit or otherwise, the order bad in a beginning may, by the time it comes to Court on account of a challenge, get validated by additional grounds later brought out.

7. And it is admitted in the counter affidavit that the petitioner is in the possession of the property. Whether, the possession of the petitioner is genuine or not, is a question of fact.

8. According to the Judgment of the Hon'ble Apex Court in the case of ***Government of Andhra Pradesh v. Thummala Krishna Rao and another***², summary eviction under the Act is improper where a genuine, complex, or long-standing dispute over Government title exists requiring Court adjudication.

¹ (1978) 1 SCC 405

² (1982) 2 SCC 134

9. Admittedly, the 4th respondent issued notice under Section 7 of the Act, for which the petitioner has submitted her explanation dated 11.07.2024 and the same has not been considered by the respondents. This Court places reliance of the judgment of the common High Court of Andhra Pradesh in the case of **Jyothi Education Society vs Government of A.P. and others**³. The Division Bench of the High Court held in the following:

“Since the respondents passed the order under Section 6 of the Encroachment Act on 28.4.2001 without considering the objections of the petitioner, in order to meet the ends of justice, the order passed by the respondents under Section 6 of the Encroachment Act on 28.4.2001 has to be set aside and we do so. Since we have held that the notice dated 18.4.2001 issued by the respondents under Section 7 of the Encroachment Act is a proper notice and the objections filed by the petitioner on 30.4.2001 have not been considered, we permit the respondents to pass appropriate order in the light of the objections filed on 30.4.2001 by the petitioner to the Sec.7 notice, according to law. Pending a decision by the respondents as directed by us, no coercive steps shall be taken against the petitioner by the respondents.”

10. After hearing both learned counsel for the petitioner and learned State Counsel, the above referred judgment is squarely applicable to the present facts of the case.

³ 2002 (6) ALD 83 A5

11. Hence, the present Writ Petition is allowed by setting aside the impugned order dated 15.09.2023 and the respondents are directed to examine the explanations submitted by the petitioner and pass appropriate orders in accordance with law and communicate the decision to the petitioner. Till the decision is taken, the respondents are directed not to take any coercive steps against the petitioner's property. There shall be no order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 20.04.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

W.P.No. 26609 OF 2023

Date: 20-04-2026

Harin