



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

[3332]

FRIDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 31576/2023

Between:

1. BALE VENKATA SRINIVASA RAO, , S/O. RAJA MOHANA RAO AGED 40 YEARS, R/O. 15-69-1, M.M.PURAM, H/O. PULLA BHIMADOLE MANDAL, ELURU DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, PANCHAYAT RAJ AND RURAL DEVELOPMENT DEPARTMENT, SECRETARIAT, VELGAPUDI, AMARAVATHI,

2. THE DISTRICT COLLECTOR, ELURU ELURU DISTRICT

3. THE PULLA GRAMA PANCHAYAT, REP BY ITS SECRETARY, PULLA, BHIMADOLE MANDAL, ELURU DISTRICT.

4. BALE VENKATA RAMA RAO, , S/O. LATE. SUBBA RAO AGED 62 YEARS, R/O. 15-143, M.M.PURAM, H/O. PULLA, BHIMADOLE, MANDAL, ELURU 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 an appropriate writ or order or a direction more particularly one in the nature of WRIT of MANDAMUS declaring the action of the respondents more particularly the 3rd respondent not removing the illegal encroachments and structures raised by the 4th respondent in an extent of Acs.0.03 cents in S.NO.761 of M.M. Puram H/o. Pulla which is the road

margin and public property, which is illegal, irregular and violative of Articles 14 and 21 of the Constitution of India and violative of section 53 of Panchayatiraj Act, rules framed there under and also violative of Principles of natural justice, consequently direct the 4th respondent to remove the encroachments and structures raised by the 4th respondent in an extent of Acs,0.03 cents in S.NO.761 of M.M. Puram H/o. Pulla and pass s

IA NO: 1 OF 2023

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 4* respondent to remove the illegal encroachments and structures raised by the 4**^ respondent in an extent of Acs.0.03 cents in S.NO.761 of M.M. Puram H/o. Pulla which is the road margin and public property and pass

Counsel for the Petitioner:

1.J VENKATA RAMANA

Counsel for the Respondent(S):

1.A S NARAYANA

2.GP FOR PANCHAYAT RAJ RURAL DEV

3.N SRIHARI (Standing Counsel for ZPP MPP and GRAM PANCHAYAT)

The Court made the following:

ORDER:

The present writ petition is filed to declare the action of the 3rd respondent in not removing the encroachments and structures raised by the 4th respondent in an extent of Ac.0.03 cents in Sy.No.761 of M.M.Puram, which is road margin and public property.

2. Heard Sri J.Venkata Ramana, learned counsel for the petitioner and Sri Y.Koteswara Rao, learned Standing Counsel for Gram Panchayat appearing for the respondents.

3. While reiterating the contents of the affidavit, learned counsel for the petitioner submitted that despite bringing to the notice of the authorities concerned about encroachment made by the 4th respondent on the public road margin (subject property), no action has been initiated. However, the authorities are stating that a suit is pending before the competent Civil Court vide O.S.No.79 of 2021. The reason stated for not removing the encroachments is that the suit is pending before the competent civil Court on the file of Junior Civil Judge, Bhimadole. In fact, the suit schedule property is different and the writ schedule property is different. In such circumstances, the respondent–Gram Panchayat cannot take shelter of pendency of the suit and refrain from removing the encroachment. It would suffice if a direction is issued to the authorities concerned i.e., Gram Panchayat, to take steps for removal of the encroachments on the road margin in accordance with law in a time-bound manner.

4. On the other hand, the Gram Panchayat, in its counter submitted that the subject land in Sy.No.761 is not a road margin, it is classified as Kaluva. Not only

the 4th respondent but also the petitioner has encroached upon the said land and the authorities have intention to take steps in accordance with law.

5. Perused the record and considered the statements.

6. The contention of the petitioner is that the land in Sy.No.761 to an extent of Ac.0.03 cents, is a road margin and public property, wherein the 4th respondent has encroached and that the authorities have not removed the encroachments though a statutory duty cast upon them.

7. It is further contention of the petitioner that the reason assigned by Gram Panchayat for not removing the encroachments is the pendency of a suit before the learned Junior Civil Judge, Bhimadole, vide O.S.No.79 of 2021. Even otherwise, in the counter it is stated that Sy.No.761 is classified as Kaluva and that not only the 4th respondent but also the petitioner is an encroacher. When the land is admittedly classified as Kaluva, it vests with the Gram Pachayat, and if encroachments take place, it is the duty cast upon the Gram Panchayat to remove the same in accordance with law. Having noticed that there are encroachments, failure to remove the same amounts to dereliction of statutory duty. As no positive orders have been passed affecting the rights of the 4th respondent herein, inviting counter of the 4th respondent is unnecessary.

8. However, instead of going into merits and demerits of the case and decide whether the encroachments exist on the subject land, this Court is inclined to dispose of the writ petition by passing the following order:-

“The Gram Panchayat is directed to look into the grievance of the petitioner and if there are encroachments on the subject land, shall take steps in removing the same by issuing appropriate show cause notice to all encroachers including

the 4th respondent, inviting explanations by giving sufficient time and pass reasoned orders by providing opportunity of being heard. The said process shall be completed within three (03) months from the date of receipt of copy of this order. It is needless to observe that even if the petitioner is found to have encroached upon the land, the respondent authorities shall take steps in removing such encroachments by following due process of law.

10. Accordingly, the Writ Petition is ***disposed of***. There shall be no order as to costs.

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

JUSTICE RAVI CHEEMALAPATI

Date: 12.12.2025.
JLV

234

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 31576/2023

Date: 12.12.2025.
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