



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

[3332]

WEDNESDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 33680/2025

Between:

1. TOLETI VENKATESWARA RAO, S/O VENKATA RATNAM, AGED ABOUT 60 YEARS, D.NO. 2-31, GOPALASWAMY TEMPLE STREET, TIRUPATHIPURAM, ATTILI MANDAL, WEST GODAVARI DISTRICT

...PETITIONER

AND

1. THE STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY, PANCHAYAT RAJ DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, GUNTUR DISTRICT.

2. THE DISTRICT COLLECTOR, WEST GODAVARI DISTRICT

3. THE DISTRICT PANCHAYAT OFFICER, BHIMAVARAM, WEST GODAVARI DISTRICT

4. THE TIRUPATHIPURAM GRAM PANCHAYAT, REP BY PANCHAYAT SECRETARY, TIRUPATHIPURAM, ATTILI MANDAL, WEST GODAVARI DISTRICT

5. MANEPALLI VENKATA SUBBARAO GUPTA, S/O MANEPALLI VENKATA KIRSHNARAO, AGED ABOUT 49 YEARS, D.NO. 2-37, GUTTIKONDAVARI STREET, TIRUPATHIPURAM VILLAGE, ATTILI MANDAL, WEST GODAVARI 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, order or direction mostly one which is in the nature of a Writ of Mandamus declaring inaction of the Respondents 3 and 4 in stopping the illegal constructions and in not demolishing the unauthorized construction by the 5th Respondent by encroaching the pathway and public road in R.S.No. 149, Gopalaswamy Temple Street, Tirupathipuram Village, Attili Mandal, West Godavari District as illegal, arbitrary, unreasonable, unfair, unconstitutional, unjustified and unsustainable and consequently direct the Respondents to demolish the unauthorized construction made by the Respondent No. 5 and to prevent further from making any illegal constructions in R.S.No. 149, Gopalaswamy Temple Street, Tirupathipuram Village, Attili Mandal, West Godavari District 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 2 to 4 to immediately stop all further construction by the Respondent No. 5 in the pathway in R.S.No. 149, Gopalaswamy Temple Street, Tirupathipuram Village, Attili Mandal, West Godavari District and pass

Counsel for the Petitioner:

1.SODUM ANVESHA

Counsel for the Respondent(S):

1.GP FOR PANCHAYAT RAJ RURAL DEV

2.GP FOR REVENUE

The Court made the following order:

The grievance of the petitioner is that respondent Nos.3 and 4 are not taking steps against the illegal constructions made by unofficial respondent by encroaching the pathway and public road in R.S.No.149, Gopalaswamy Temple street, Tirupathipuram Village, Attili Mandal, West Godavari District.

2. Heard Ms Sodum Anvesha, learned counsel for the petitioner, Smt D.Chandrika, learned Assistant Government Pleader for Panchayat Raj, Sri Chandra Sekhar, learned Assistant Government Pleader for Revenue, and Sri Y.Koteswararao, learned standing counsel for Gram Panchayat.

3. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit, contended that the unofficial respondent has raised unauthorized construction by encroaching upon the public road and the common pathway, thereby affecting the ingress and egress of the petitioner and other neighbours to reach their respective residences. He further submitted that despite bringing the same to the notice of the Gram Panchayat through several representations, no action has been initiated by the Gram Panchayat. He further submitted that it would suffice, if a direction is given to the Gram Panchayat to take steps against the encroachments made by the unofficial respondent. Hence, prayed to pass appropriate orders in that regard.

4. On the other hand, learned standing counsel for Gram Panchayat placed on record the written instructions of the Panchayat Secretary, Tirupathipuram Gram Panchayat *vide* Rc.No.07/2025, dated 03.12.2025 and

contended that the Gram Panchayat has not approved the building permission applied by the unofficial respondent. He further submitted that however, the unofficial respondent had started construction without leaving the required setbacks, hence, the Gram Panchayat stopped the said construction stating that building should be constructed only after obtaining proper permission. He further submitted that the Gram Panchayat will take appropriate steps against the unauthorized constructions. Hence, no further adjudication is required in this matter and prayed to dismiss the Writ Petition.

5. Perused the record and considered the submissions made by learned counsel for the parties.

6. The contention of the learned counsel for the petitioner is that the Gram Panchayat has not taken any action against the unauthorized constructions made by the unofficial respondent by encroaching upon the public road and the common pathway. The written instructions placed by the learned standing counsel indicate that the unofficial respondent has stopped the construction.

7. It is the duty cast upon Panchayat authorities to take action against the unauthorized constructions, if any, strictly in accordance with the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 and the Building Rules. As per Section 53 of the Panchayat Raj Act, all roads in any village, other than National Highways, State Highways and roads vesting in Zilla Parishad and Mandal Parishad, shall vest in the Gram Panchayat. Further as per Section 98 of the Panchayat Raj Act, the Gram Panchayat shall remove any encroachment or obstruction, in or over a public road by issuing notice. Rule

4 of G.O.Ms.No.188 Panchayat Raj and Rural Development (PTO.IV) Department, dated 21.07.2011, makes it clear that the Gram Panchayat shall serve a notice on the encroacher and afford an opportunity of hearing before proceeding with eviction.

8. In view of the above and taking the submissions of both the learned counsel into consideration, since the unofficial respondent has stopped the unauthorized construction and this Court is not passing any order affecting the rights of the unofficial respondent, no notice is required to be issued to the unofficial respondent. Hence, this Court, without going to the merits of the case, is inclined to dispose of the Writ Petition at the stage of admission by passing the following order:

“The Gram Panchayat is directed to look into the grievance of the petitioner, and if it is found that there is any encroachment upon the road as alleged by the petitioner, to take appropriate steps by issuing a proper show cause notice calling for explanation to the unofficial respondent/encroachers, if any, granting sufficient time and affording an opportunity of being heard. If no encroachments are found, the same shall be informed to the petitioner in writing. Such exercise shall be completed within a period of three (3) months from the date of receipt of a copy of this order.”

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

As a sequel thereto, interlocutory applications pending, if any in the Writ Petition, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

03.12.2025

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THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

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MP