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

THURSDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT
THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION NO: 15603, 17865 and 23211 OF 2020

WRIT PETITION NO: 15603 OF 2020

Between:

1. Yanamala Chittabbayi, S/o. late Appa Rao, Aged about 65 years, cultivation, R/o. Gorsa-Palem, thongangi Mandal, East Godavari Dist.
2. Yanamala Rambabu, S/o. Chittabbayi, Aged 32 years, D.No.4-111/2c, Srinivasanagar, Vakalapudi, Kakinada, East Godavari Dist.
3. Kokke(yanamala) Ammani, W/o. Chanti Babu, Aged 30 years, cultivation, R/o. Gorsapalem, Thondangi Mandal, East Godavari District.

...PETITIONERS

AND

1. The State of Andhra Pradesh, represented by its Principal Secretary, Home Department. Secretariat, Velagapudi, Guntur District.
2. The Superintendent of Police, East Godavari District, Kakinada.
3. The Station House Officer, Thondangi Police Station, Kakinada District (Erstwhile East Godavari District).
4. Yanamala Yedukondalu, S/olate Appa Rao, Aged 50 years, cultivation, R/o. Gorsapalem, Thondangi Mandal, E.G.District.
5. Yanamala Mangapatnam, W/o Yedukondalu, Aged 45 years, housewile, R/o. Gorsapalem, Thondangi Mandal E.G.District.
6. Yanamala Siva kalyan, S/o. Yedukondalu, Aged 22 years, R/o. Gorsapalem, Thondangi Mandal, E.G.District.
7. Yanamala Ganesh, S/o. Yedukondalu, Aged 20 years, R/o. R/o. Gorsapalem, Thondangi Mandal, E.G.District.

(CT is amended in Writ Petition and Affidavit as per the Court's order, dt. 16.10.2023 vide order passed in IA. No. 2 of 2023.)

...RESPONDENTS

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, especially one in the nature of Writ of Mandamus, declaring the action of the respondents in not providing police protection/for aid in implementing the decree of injunction grated in O.S.No. 30 of 2008 on the file of the Court of the Principal Junior Civil Judge, Tuni in respect of

the property of an extent of Ac. 0-34 cts in S.No. 41/2, Ac.0-32 cts in S.No.41/7, Ac.0-37 cts in S.No. 47/10 and Ac.1-74 cts in S.No. 47/10 of Gorsapalem Village, Thondangi Mandal, East Godavari District as illegal, arbitrary, non exercising the powers vested with the office and violation of Arts 14 and 21 of the Constitution of India and consequently direct the respondents to provide police protection/aid in implementing the order injunction in O.S.No 30 of 2008.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to consider the complaints dated 06-08-2020 and direct the respondents to provide police aid/protection and see to it that the respondents 4 to 7 shall not interfere and with the possession and enjoyment of petitioners lands in an extent of Ac. 0-34 cts in S.No.41/2, Ac.0-32 cts in S.No.41/7, Ac.0-37 cts in S.No. 47/10 and Ac.1-74 cts in S.No. 47/10 of Gorsapalem Village, Thondangi Mandal, East Godavari District pending disposal of the above Writ Petition.

IA NO: 2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to permit the petitioners to amend the third respondent in cause title of writ affidavit, writ petition and miscellaneous petition as Station House Officer, Thondangi Police station, East Godavari District by deleting Station House Officer, S.Rayavaram Police Station, Visakhapatnam District.

Counsel for the Petitioners : SRI S. SUBBA REDDY

Counsel for the Respondent Nos. 1 to 3 : GP FOR HOME

Counsel for the Respondent Nos. 4 to 7 : NONE APPEARED

WRIT PETITION NO: 17865 OF 2020

Between:

C. Nagaraju, S/o. Late Chikkanna, Aged 56 Years, R/o. Kenkera Village, H/o. Hemavathi, Amarapuram Mandal, Anantapur District.

...PETITIONER

AND

1. The State of AP, Rep. by its Principal Secretary, Home Department, Secretariat, Amaravathi, Velagapudi, Guntur District.
2. The Superintendent of Police, Anantapur, Anantapur District.
3. The Station House Officer, Amarapuram Police Station Amarapuram, Anantapur District.
4. Hanumakka, W/o. Late Eeranna, Aged 86 years, Sinecure, R/o. Hemavathi, Amarapuram Mandal, Anantapur District.
5. Sakamma, W/o. Late Eeranna, Aged 73 years, Cultivation, R/o. Hemavathi, Amarapuram Mandal, Anantapur District.
6. E. Aswathanarayana,, S/o. Late Eeranna, Aged 53 years, Cultivation, R/o. Hemavathi, Amarapuram Mandal, Anantapur District.
7. Rathnamma, W/o. Yanjarappa, Aged 56 years, Sinecure, R/o. Hemavathi, Amarapuram Mandal, Anantapur District.

...RESPONDENTS

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 nature of Writ of Mandamus declaring the inaction of the 3rd respondent in taking appropriate action in pursuant to the petitioners representation Dt.18.11.2018 for providing police protection so as to implement the judgment and decree passed in O.S.No.149 of 2012, Dt.19.06.2017 on the file of the Senior Civil Judge, Hindupur for protection of decreetal property in Sy.No.124-1 to an extent of Ac.2-07 cents including 20 tamarind trees (Ac.0-02 cents) in Kulam No.19 situated at Hemavathi Village Polam, Amarapuram Mandal, Anantapur District is illegal and arbitrary and consequently direct the respondents no.2 and 3 to provide police protection in respect of decreetal property in pursuant to the judgment and decree passed in O.S.No.149 of 2012, Dt.19.06.2017 on the file of the Senior Civil Judge, Hindupur.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents no.2 and 3 to consider the petitioners representation Dt.18.11.2018 for providing police protection in respect of petitioners schedule property in Sy.No.124-1 to an extent of Ac.2-07 cents including 20 tamarind trees (Ac.0-02 cents) in Kulam No.19 situated at Hemavathi Village Polam, Amarapuram Mandal, Anantapur District forthwith, pending disposal of the writ petition.

Counsel for the Petitioners : SRI KATA SAMBASIVA RAO

Counsel for the Respondent Nos. 1 to 3 : GP FOR HOME

Counsel for the Respondent Nos. 4 to 7 : NONE APPEARED

WRIT PETITION NO: 23211 OF 2020

Between:

1. Meduri Subba Rao, S/o. M. Prabhakar Rao, Aged about 35 years, R/o. D.No.11-267A, 11th Ward, Managalagiri Village and Mandal, Guntur District.
2. Meduri Santosh Kumar, S/o. M. Prabhakar Rao, Aged about 30 years, R/o. D.No.11-267A, 11th Ward, Managalagiri Village and Mandal, Guntur District.

...PETITIONERS

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Home Department, Secretariat, Amaravathi, Velagapudi, Guntur District.
2. The Superintendent of Police, Guntur, Guntur District.
3. The Station House Officer, Manalagiri Police Station Manalagiri, Guntur District.
4. Bethapudi Naga Malleswara Rao, S/o. Veeranjaneyulu Aged 52 years, R/o. D.No. 11-265 Mangalagiri Mandal, Guntur District.

...RESPONDENTS

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 nature of Writ of Mandamus declaring the inaction on the part of the respondents 2 and 3 in considering the petitioners representations Dt.18.07.2020 and 27.07.2020 for

providing police protection so as to implement the judgment and decree passed in A.S.No.5 of 2017, Dt.05.09.2018 on the file of the Senior Civil Judge, Mangalagiri for protection of decreetal property bearing D.No.95/B admeasuring 49-3 Sq.Yds., situated at Managalagiri Village, Guntur District is illegal and arbitrary and consequently direct the respondents No.2 and 3 to provide police protection in respect of decreetal property in pursuant to the judgment and decree passed in A.S.No.5 of 2017, Dt.05.09.2018 on the file of the Senior Civil Judge, Mangalagiri.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents No.2 and 3 to consider the petitioners representations Dt.18.07.2020 and 27.07.2020 for providing police protection in respect of decreetal property in pursuant to the judgment and decree passed in A.S.No.5 of 2017, Dt.05.09.2018 on the file of the Senior Civil Judge, Mangalagiri forthwith, pending disposal of the writ petition.

Counsel for the Petitioners : SRI KATA SAMBASIVA RAO

Counsel for the Respondent Nos. 1 to 3 : GP FOR HOME

Counsel for the Respondent No. 4 : NONE APPEARED

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION Nos.15603, 17865 and 23211 of 2020

COMMON ORDER:

In this batch of writ petitions, the common grievance of the writ petitioners is that the respondent Police officials are not providing Police aid to implement the permanent injunction decrees passed in their favour.

2. Heard learned counsel for the petitioners and learned Government Pleader for Home appearing for the official respondents.

3. The petitioners claim to have obtained permanent injunction decrees from a competent civil Court against the unofficial respondents in all these writ petitions when they made illegal attempts to trespass into their property and occupy the same. It is their grievance that despite passing of the decrees for permanent injunction by a competent civil Court that the official respondents, in utter violation of the said decrees, are interfering with the rights of the petitioners in respect of their property. Therefore, they sought Police aid by approaching the respondent Police officials respectively. It is stated that the Police did not provide any Police aid to implement the permanent injunction decrees passed by a competent civil Court. Therefore, they sought a direction in these writ petitions to the respondent Police officials to provide Police aid for effective implementation of the aforesaid permanent injunction decrees passed in their favour.

4. The claim of the petitioners to provide Police aid is opposed by learned Government Pleader for Home appearing for the official respondents on the ground that the petitioners did not approach the concerned civil Court, which passed the permanent injunction decrees, seeking Police aid and in the absence of any such orders from the civil Court that the Police officials cannot provide any Police aid to them as the

dispute is of civil nature. Learned Government Pleader for Home also opposed the present writ petitions by placing reliance on the judgment of the Division Bench of this Court reported in the case of **Polavarapu Nagamani vs. Parchuri Koteshwara Rao**[1], wherein it was held that the aggrieved persons have to approach the civil Court, which passed the decree and the civil Court, after hearing the respondents, against whom the decree was passed, has to decide whether to provide Police aid or not, and they cannot directly approach the writ Court seeking Police aid.

5. Learned counsel for the petitioners would submit that the above judgment in **Polavarapu Nagamani** (1 supra) is held to be *per incuriam* in the case of **Gampala Anthaiah vs. Kasarla Venkat Reddy**[2] by this Court as it runs contrary to the judgments of the Apex Court and this Court reported in the cases of **Manohar Lal Chopra vs. Rai Bahadur Rao Raja Seth Hiralal**[3] and **Satyanarayana Tiwari vs. S.H.O., P.S., Santhoshanagar, Hyderabad**[4], wherein it was held that the Courts have jurisdiction to grant Police aid.

6. It is not in dispute that the competent civil Courts have passed decrees for permanent injunction in respect of property covered by all these writ petitions in favour of the petitioners. There is no provision in the Civil Procedure Code, 1908 to seek Police aid for implementation of the permanent injunction decrees. Provision is made in the scheme of the Code only to proceed against the persons, who suffered the said permanent injunction decrees, for disobeying the said decrees. Therefore, in the said facts and circumstances of the case, the petitioners can approach the writ Court seeking a direction to the Police officials to

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[1] 2010 (2) ALD 41 (DB)
[2] (2014) 2 ALD 281
[3] AIR 1962 SC 527
[4] AIR 1982 (AP) 394

provide Police aid for effective implementation of the said permanent injunction decrees to enable the decree holders to enjoy the fruits of the said decrees.

7. The contention of the learned Government Pleader for Home appearing for the official respondents that the petitioners cannot approach the writ Court without approaching the civil Court, which passed the permanent injunction decrees, cannot be countenanced in view of the judgment of this Court reported in the case of **Gampala Anthaiah** (2 supra). It is now well settled law that when a decree for permanent injunction was passed by a competent civil Court, when there is an attempt by the persons, who are suffering the said decrees, to disobey the said decree, the aggrieved party can approach the writ Court seeking Police aid. Therefore, in view of the settled law in this regard as has been held by this Court in **Satyanarayana Tiwari** (4 supra), **Gampala Anthaiah** (2 supra) and **A.Bharathi vs. State of Telangana**[5] and by the Apex Court in **Manohar Lal Chopra** (3 supra), the petitioners are entitled for grant of Police aid in all these writ petitions.

8. In the result, these Writ Petitions are allowed, directing the respondent Police officials to provide Police aid to the petitioners for effective implementation of the permanent injunction decrees that are passed in their favour. No costs.

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

[5] **(2017) 1 ALD 503**

Sd/- CH.V.SUBRAHMANYA SARMA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Andhra Pradesh, Secretariat, Velagapudi, Guntur District.
2. The Superintendent of Police, East Godavari District, Kakinada,
3. The Station House Officer, Thondangi Police Station, Kakinada District (Erstwhile East Godavari District).

4. The Superintendent of Police, Anantapur, Anantapur District.
5. The Station House Officer, Amarapuram Police Station Amarapuram, Anantapur District.
6. The Superintendent of Police, Guntur, Guntur District.
7. The Station House Officer, Manalagiri Police Station Manalagiri, Guntur District.
8. One CC to Sri S. Subba Reddy, Advocate [OPUC]
9. One CC to Sri Kata Sambasiva Rao, Advocate [OPUC]
10. Two CCs to GP for Home, High Court of Andhra Pradesh. [OUT]
11. Two C.D. Copies.

(Note: The 3rd respondent, The Station House Officer, S. Rayavaram Police Station, Visakhapatnam District is corrected as The Station House Officer, Thondangi Police Station, Kakinada District (Erstwhile East Godavari District). as per the Court's order, dt. 16.10.2023 vide order passed in IA. No. 2 of 2023. Substitute this amended order in place of earlier order which was despatched on 25.01.2021.)

Sd/- S.SRINIVASA PRASAD
ASSISTANT REGISTRAR

Cnr
gl

HIGH COURT

DATED: 10/12/2020
16/10/2023



AMENDED COMMON ORDER

WP.No.15603, 17865 and 23211 of 2020

(13)
M.M.S.
16/11/23

ALLOWING THE W.P.
WITHOUT COSTS