APHC010014982025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3329]**
(Special Original Jurisdiction)

FRIDAY ,THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION NO: 838/2025

Between:

V Ashok Kumar Reddy **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. T VENU GOPAL

Counsel for the Respondent(S):

1. GP FOR PANCHAYAT RAJ RURAL DEV

THE HON'BLE SRI JUSTICE VENAKTESWARLU NIMMAGADDA

WRIT PETITION NO.838 of 2025

This Court made the following

ORDER:

1. This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

> "..to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS or any other appropriate Writ, Order or direction declaring the action of the Respondents in trying to demolish the house of the Petitioner situated in Survey No.465-B of Vidavaluru Village for widening of the village Road (from Buchi Village to Utukur Village Road), beside to the CC Road in Survey No.465, 446 of Vidavalur Village, Vidavaluru Mandal, SPSR Nellore District, without giving any personal opportunity/hearing, without calling for any explanation, pursuant to the notices dated 20.11.2024, 12.12.2024 of the 6th Respondent to remove the constructions beside to the Village CC Road (from Buchi Village to Utukur Village road) in Sy.No.465, 446 of Vidavaluru Village, Vidavaluru Mandal, SPSR Nellore District, as arbitrary, illegal, unjust, violative of principles of natural justice, contrary to law, discriminatory, violative of the Fundamental Rights guaranteed under Articles 14, 19(1)(g) and 21 and the Constitutional Right guaranteed under Article 300-A of the Constitution of India and consequently set aside the notices of the 6th Respondent dated 20.11.2024, 12.12.2024 and further direct the Respondents not to interfere or demolish the petitioner's house/compound wall over the aforesaid land and pass..."

2. The petitioner's mother acquired a constructed House in the year 1982, consisting of first and second floors of RCC roof building, along with an extent of land admeasuring 552 Sq. Yds in Sy.No.465-B, Vidavalur Village vide Registered Sale Deed bearing Doc.No.397/2007, dated 27.02.2007. Thereafter for getting bank loan against the above said house property, the petitioner's mother approached the 6th Respondent for grant of approval plan in respect of subject property, accordingly the same was approved by the 6th Respondent. The above said house was gifted to the Petitioner by his mother vide registered settlement Deed bearing Doc.No.2779/2021, dated 27.08.2021.

3. Now the Respondents have proposed for widening of the road beside to the village CC road and accordingly issued notices dated 20.11.2024 and 12.12.2024 in the name of petitioner's father who was died in the year 2020, calling upon to remove the alleged illegal constructions / encroachments beside to the said CC road in Sy.No.465, 446 of Vidavaluru Village within seven days otherwise they will threatened to take legal action by removing the construction beside to the village CC road without giving any opportunity/personal hearing. Hence the Writ Petition.

4. During hearing, learned counsel for the petitioner, without touching the merits of the case, requested this Court to issue a direction to the respondents not to dispossess the petitioner from his land, without following due process of law.

5. Learned Assistant Government Pleader for Respondents, admitted that the petitioner is continuing in possession of subject house and the respondents authorities would follow due process of law and requested to pass appropriate orders.

6. It is settled proposition of law that when the petitioner is in settled possession and enjoyment of the property, the respondents are not entitled to interfere with the possession and enjoyment of the petitioner and such highhanded action of the respondents would amount to depriving the petitioner's violating constitutional right guaranteed under Article 300-A of the Constitution of India, besides violation of Article 14 of the Constitution of India. Even assuming for a moment that this petitioner's possession is illegal, still, the petitioner is required to be afforded an opportunity before taking appropriate action and in view of the law declared by the Apex Court in "***Rame Gowda (dead) by L.Rs. v. M.Varadappa Naidu (Dead) by L.Rs***.[1], when the petitioner is in settled

[1] 2004 (1) SCC 769

possession and enjoyment of the property, he cannot be dispossessed, without following due process of law. Therefore, the respondents are directed not to dispossess the petitioner from his property, except by due process of law.

7. With the above direction, the writ petition is disposed of, with the consent of both the counsel. No costs.

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

JUSTICE VENKATESWARLU NIMMAGADDA

10.01.2025
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THE HON'BLE SRI JUSTICE VENAKTESWARLU NIMMAGADDA

150

WRIT PETITION NO.838 of 2025

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