APHC010037452025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3328]**
(Special Original Jurisdiction)

FRIDAY ,THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION NO: 2248/2025

Between:

1. POGULA MADHUSUDHAN RAO, S/O. VENKATESWARLU, AGED 65 YEARS, R/O. EPURU BIT-1 A VILLAGE, MUTTUKUR MANDAL, SPSR NELLORE DISTRICT.

...PETITIONER

AND

1. STATE OF ANDHRA PRADESH, REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMAVARATHI, GUNTUR DISTRICT. REP. BY ITS PRINCIPAL SECRETARY.
2. THE DISTRICT COLLECTOR, SPSR NELLORE DISTRICT.
3. THE REVENUE DIVISIONAL OFFICER, NELLORE, SPSR NELLORE DISTRICT.
4. THE TAHSILDAR, MUTTUKUR MANDAL, SPSR NELLORE 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 tomay be pleased to issue a writ or direction more particularly in the nature of a writ of Mandamus under article 226 of the constitution of India declaring action of the 4th respondent in issuing notice dt.03.11.2024 under Sec.7 of Act 3 of Madras, 1905 and passing the Orders dt.07.01.2025 under Sec.6 of Act 3 of Andhra, 1905 in directing the Petitioner to evict the land of

an extent 17 Ankanams or Ac.0.283 cents, in Sy.No.602, situated at Epuru Bit-ll village, Muttukuru Mandal, SPSR Nellore District without considering the explanation submitted by the petitioner dt.24.01.2025 as illegal, arbitrary, one without jurisdiction, violation of principles of natural justice, in contravention of provisions of Andhra Pradesh Land Encroachment Act, 1905 and in violation of Article 300-A of the Constitution of India and consequently direct the respondents not to interfere with the possession of the petitioner with respect to land of an extent 17 Ankanams or Ac.0.283 cents, in Sy.No.602, situated at Epuru Bit-ll village, Muttukuru Mandal, SPSR Nellore District by setting aside the notices of the 4th respondent dt.03.11.2024 and 07.01.2025 and pass

IA NO: 1 OF 2025

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 t may be pleased to direct the respondents not to interfere with the possession of the petitioner with respect to land of an extent 17 Ankanams or Ac.0.283 cents, in Sy.No.602, situated at Epuru Bit-ll village, Muttukuru Mandal, SPSR Nellore District by suspending the notices of the 4th respondent clt.03.11.2024 and 07.01.2025 and pass

Counsel for the Petitioner:

1. C SUBODH

Counsel for the Respondent(S):

1. GP FOR REVENUE

The Court made the following:

ORAL ORDER:

Heard Sri C. Subodh, learned Counsel for the Writ Petitioner and Sri K. Arjun Chowdary, learned Assistant Government Pleader for Revenue.

2. Learned Counsel for the Writ Petitioner has drawn the attention of this Court to the Notice dated 03.11.2024 issued under Section 7 of the Madras Act, 1905 and the same is *per se* illegal. Learned Counsel would submit that the notice dated 07.01.2025 is issued under Section 6 of the A.P. Land Encroachment Act, 1905 (Ex.P.3). It is noticed by this Court that the same Officer has issued the Notice under Section 7 of the Madras Act, 1905 (Ex.P.1); whereas he has issued Notice under Section 6 of the A.P. land Encroachment Act. Section 7 of the Madras Act does not apply in the State of Andhra Pradesh. The A.P Land Encroachment Act, 1905 is the 'Act' in force in the State of Andhra Pradesh.

3. In this view of the matter, the Impugned Notice issued under Section 7 of the Madras Act, 1905 is unsustainable in law. Accordingly, the Impugned Notice dated 07.01.2025 issued under Section 7 of the Madras Act, 1905 (Ex.P.3) is set aside. As a necessary consequence, the Notice issued under Section 6 of the A.P. land Encroachment Act, 1905 is also set aside. Needless to state that the Official Respondents are at liberty to issue fresh Notice by following the proper statutory procedure.

4. With these observations and directions, this Writ Petition stands disposed of. No order as to costs.

5. Interlocutory Applications, if any, stand closed in terms of this order.

GANNAMANENIRAMAKRISHNA PRASAD, J

Date: 31.01.2025
ANS

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THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION NO: 2248/2025

Date: 31.01.2025
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