IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No.14598 of 2024

Between:

1. VASAMSETTI RAMAKRISHNA, S/O. SRI SURYA RAO, AGED 45 YEARS, R/O. D NO. 2-22, YERRAPOTHAVARAM VILLAGE PAMARRU MANDAL, KONASEEMA DISTRICT

...PETITIONER

AND

1. THE STATE ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI AND OTHERS

...RESPONDENTS

DATE OF ORDER PRONOUNCED : **10.10.2026**

SUBMITTED FOR APPROVAL:

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers may be allowed to see the order? : Yes/No

2. Whether the copy of order may be marked to Law Reporters/Journals? : Yes/No

3. Whether His Lordship wish to see the fair copy of the order? : Yes/No

JUSTICE SUBBA REDDY SATTI

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

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...RESPONDENTS

! Counsel for Petitioner : Sri Chintapalli Srinivas

^ Counsel for Respondent : GP for Revenue
GP for Roads & Buildings
Sri P.Sreemannarayana

< Gist:
> Head Note:
? Cases referred:

1) AIR 1986 SC 180
2) (2001) 6 SCC 496
3) (1982)2 SCC 134
4) (2008) 12 SCC 481
5) (2010) 2 SCC 114 : 2009 SCC OnLine SC 1867
6) (2011) 11 SCC 396
7) AIR 2006 SC 1350 : (2006) 3 SCC 549
8) (2019) 4 SCC 500
9) (1997) 11 SCC 121
10) AIR 2004 P&H 59
11) C/SCA/17640/2024
12) C/LPA/661/2020

This Court made the following:

Date of reserved for orders: 21.09.2026
Date of pronouncement : 10.10.2026
Date of uploading : 10.10.2026

APHC010292902024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3331]**
(Special Original Jurisdiction)

SATURDAY, THE 10th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION NO: 14598/2024

Between:

1. VASAMSETTI RAMAKRISHNA, S/O. SRI SURYA RAO, AGED 45 YEARS, R/O. D NO. 2-22, YERRAPOTHAVARAM VILLAGE PAMARRU MANDAL, KONASEEMA DISTRICT

...PETITIONER

AND

1. THE STATE ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT REVENUE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI
2. THE SUPERINTENDENT ENGINEER R AND B SUB DIVISION, RAMACHANDRAPURAM, DR B.R.AMBEDKAR, KONASEEMA DISTRICT
3. THE DEPUTY EXECUTIVE ENGINEER RANDB SUB DIVISION, , RAMACHANDRAPURAM, DR B.R.AMBEDKAR, KONASEEMA DISTRICT
4. THE DEPUTY EXECUTIVE ENGINEER, IRRIGATION SUB DIVISION, RAMACHANDRAPURAM, DR B.R.AMBEDKAR, KONASEEMA DISTRICT
5. THE TAHASILDAR, K.GANGAVARAM DR B.R.AMBEDKAR, KONASEEMA DISTRICT
6. R PADMAVATHI, W/O. SATYANARAYANA AGED 63 YEARS, OCC. HOUSEWIFE, R/O. 8-19-2/11 CHAGANTIVARI STREET, KAKINADA

...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 a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the 5th respondent in issuing proceedings dated 13..6.2024 and threatening to demolish ad dispossess the petitioner from his house and water plant in the premises bearing H No.2-11, 2-12, Yarrapothavaram Village, Pamarru Mandal, Konaseema District in an extent of Ac.0.45 cents situated in Sy No. 28 without prior notice or opportunity of being heard and without jurisdiction and following due process of law as arbitrary, illegal and unjust and against to the principles of natural justice and also violative of Articles 14, 19, 21 and 300-A of Constitution of India and consequently direct the respondents not to demolish and dispossess the petitioner house property without following due process of law in the interest of justice

IA NO: 1 OF 2024

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 stay all proceedings in pursuance of impugned proceedings dt 13.06.2024 including demolition and dispossess me from property bearing D No.2-11, 2-12 in Sy No. 28 in an extent of Ac.0.45 cents land irrigation land, Yarraparthavaram village. Pamarru Mandalam, Dr. B.R Ambedkar Konaseema District, pending disposal of main writ petition

IA NO: 2 OF 2024

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 extend the interim order of status quo passed on 10-07-2024 from 31-07-2024 duly condoning our previous absent in the matter in the interests of justice and pass

IA NO: 3 OF 2024

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 vacate the interim order dated 10.07.2024 in WP.No. 14598 of 2024 and also dismiss the Writ Petition 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 to

vacate the interim order passed in W.P. No.14598 of 2024, dated 10.07.2024 and Uphold the validity of the impugned eviction orders passed by the Revenue authorities and pass

Counsel for the Petitioner:

1. CHINTAPALLI SRINIVAS

Counsel for the Respondent(S):

1. GP FOR ROADS BUILDINGS
2. GP FOR REVENUE
3. GP FOR IRRI AND CAD
4. POLAPRAGADA SREEMANNARAYANA

The Court made the following:

ORDER

The above Writ Petition has been filed assailing the proceedings of the 5th Respondent vide Ref.B/168/2023 dated 13.06.2024, whereby removal of encroachment of a thatched house and water plant situated in Sy.No.28, admeasuring Ac.0.045 cents in Yerrapothavaram Village, as arbitrary and illegal etc.

2. a) The facts in brief, as set out in the writ affidavit, are that the petitioner is the absolute owner and possessor of a small, thatched shed and a water plant in Sy.No.28 (D.No.2-11 and 2-12). The petitioner's father, late Sri Surya Rao, had constructed the said structures adjoining the PWD Kaluva (Irrigation land) belonging to the 4th respondent, and the family has been in continuous possession for over five decades.

b) While so, the 6th respondent filed W.P.No.21826 of 2023 alleging that the petitioner had encroached upon the R&B road margin. The said writ petition was disposed of on 23.08.2023, directing the respondent authorities to survey with the assistance of the Revenue Department to demarcate the road

margin and take appropriate action in accordance with the law, if any encroachment was found.

c) Pursuant to the same, a survey was conducted by the Village Surveyor and the Village Revenue Officer. The survey report categorically disclosed that the petitioner was in occupation of Ac.0.45 cents of PWD Kaluva and not the R&B road margin. Despite the same, the 5th respondent issued a show-cause notice under Section 7 of the A.P. Land Encroachment Act, 1905 (for short "**the Act**"), on 27.01.2024.

d) Upon receipt of the said notice, the petitioner submitted a detailed written explanation on 31.01.2024, asserting his long-standing possession of 50 years and seeking the grant of a house site patta. Furthermore, the petitioner filed an application under the RTI Act on 05.02.2024 to obtain the survey reports. However, the 5th respondent, having received the explanation, did not consider the petitioner's long-standing possession and issued proceedings vide Ref.B.168/2023, dated 12.03.2024 (Ex.P2).

e) Thereafter, by proceedings dated 13.06.2024, the 5th respondent issued impugned proceedings under Section 6 of the Act, directing the Mandal Revenue Inspector to remove the encroachments. Pursuant to the said impugned proceedings, the respondents and their men approached the subject property on 09.07.2024 and threatened to demolish the structures and dispossess the petitioner by 10.07.2024.

3. A Counter affidavit was filed on behalf of the 5th respondent. It was contended, *inter alia*, that a survey was conducted by giving notices to all the parties, in their presence, pursuant to the direction dated 23.08.2023 in W.P.No.21826 of 2023. The petitioner encroached upon the Government property, causing a hurdle to all villagers and vehicular traffic and to the road and irrigation canal. The 5th respondent issued a notice under Section 7 of the Act on 21.07.2024. The petitioner sent a reply. Thereafter, an order under

Section 6 of the Act was passed on 03.04.2024. The petitioner has not been residing in Door No.2-11 and 2-12. The petitioner encroached the PWD canal, constructed a water plant and has been doing business. The petitioner has been residing at Door No.1-20 of Yerrapothavaram village. The extent of land encroached is Ac.0.045 cents, but not Ac.0.45 cents. The contention of the petitioner about possession for 50 years has been specifically denied. As per the record, the petitioner paid taxes from the year 2017 onwards. The petitioner is encroaching upon the road margin and irrigation canal, and the same is objectionable. The authority gave sufficient time to the petitioner to remove the encroachment and eventually prayed to dismiss the writ petition.

4. A reply affidavit was filed by the petitioner. It was contended that as per survey report, the land was classified as PWD canal under the control of Irrigation Department and the 5th respondent-Tahsildar had no jurisdiction to invoke the provisions of the A.P. Land Encroachment Act, 1905. The petitioner, along with his family, has been residing for more than 4 to 5 decades.

5. Heard Ms.A.Saritha, learned counsel representing Sri Chintapalli Srinivas, learned counsel for the petitioner; Sri Divya Theja, learned Assistant Government Pleader for Revenue for the respondents 1 & 5; Sri Abdul Raheed, learned Assistant Government Pleader for Roads & Buildings for the respondents 2 to 5; and Sri S. Mahesh, learned counsel representing Sri P.Sreemannarayana, learned counsel for the 6th respondent.

6. Learned counsel for the petitioner, while reiterating the averments as per the affidavit and reply affidavit, would contend that without considering the explanation, the order impugned was passed by the 5th respondent. Learned counsel relied upon the judgment of the Apex Court in **Olga Tellis Vs. Bombay Municipal Corporation**[1], and argued that the right to livelihood and shelter is an integral part of the right to life under Article 21 of the Constitution.

[1] AIR 1986 SC 180

Thus, the authority cannot summarily evict the petitioner. Since the land is classified as an Irrigation Canal, the 5th respondent, Tahsildar, lacks jurisdiction to invoke the provisions of the Act. Learned counsel relied upon property tax receipts, electricity bills, and a factory license issued by the Gram Panchayat for running a water plant to establish long, continuous, and settled possession.

7. *Per contra*, learned Assistant Government Pleader and counsel appeared for the 6th respondent would submit that the joint survey report categorically established that the petitioner encroached upon Ac. 0.045 cents of land in Sy.No.28, which is officially classified as "PWD Kaluva." The Hon'ble Apex Court in **Hinch Lal Tiwari Vs. Kamala Devi**[2] and **Government of A.P. Vs. Thummala Krishna Rao**[3], set out that encroachers upon government land, specifically water bodies, cannot seek equitable relief under Article 226 of the Constitution of India. The 5th respondent-Tahsildar scrupulously followed the procedure and passed a reasoned order.

8. Now, the points for consideration are:

1) **Whether the alleged long-standing unauthorised occupation of a public water-body can be protected under the guise of the right to shelter/livelihood?**

2) **Whether the summary eviction proceedings initiated by the 5th Respondent suffer from illegality thereby warranting interference?**

9. The facts narrated supra require no reiteration. The Joint Survey Report prepared by the Village Surveyor and VRO undeniably classifies the subject land in Sy.No.28 as "PWD Kaluva." The petitioner himself, in his pleadings, admits that his father constructed the shed "adjoining" and extending into the

[2] (2001) 6 SCC 496
[3] (1982) 2 SCC 134

PWD Kaluva. However, there is a dispute regarding the length of possession. However, the documents filed along with the writ petition, Exs.P9 to P11 would demonstrate the possession of the petitioner from the year 2017 onwards, but not for five decades as asserted by the petitioner.

10. It is pertinent to mention here that in the counter affidavit filed by the 5th respondent, it was specially averred that the petitioner has been residing at D.No.1-20 Yerrapothavaram Village. A tax receipt was filed along with the counter affidavit, and the same was not denied or rebutted in the reply affidavit filed by the petitioner. In the absence of denial by the petitioner about his owning a house in the village with D.No.1-20, this Court concludes that the petitioner approached the Court with unclean hands by suppressing the material facts. (See: **K.D. Sharma Vs. SAIL[4], and Dalip Singh Vs. State of U.P.[5]**)

11. The law regarding the protection of water bodies is no longer *res integra*. In the celebrated judgment of **Jagpal Singh Vs. State of Punjab[6]**, the Hon'ble Apex Court took strict cognizance of the encroachment on village common lands, ponds, and canals. The Court issued emphatic directives that all such illegal encroachments on public utility lands must be removed, and the land must be restored to the public. The relevant paragraph is extracted below:

> "23. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/Gram Panchayat/poramboke/shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful,

[4] (2008) 12 SCC 481
[5] (2010) 2 SCC 114 : 2009 SCC OnLine SC 1867
[6] (2011) 11 SCC 396

taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show-cause notice and a brief hearing. **Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularising the illegal possession.** Regularisation should only be permitted in exceptional cases e.g. where lease has been granted under some government notification to landless labourers or members of the Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land." (**Emphasis supplied**)

12. The said principle was also reiterated in **Intellectuals Forum, Tirupathi Vs. State of A.P. & Ors.**[7] and **Sarvepalli Ramaiah and others Vs. District Collector, Chittoor District**[8], wherein the Hon'ble Apex Court observed and held that tank beds and tank poramboke cannot be converted into house sites as it is violative of Articles 48-A and 51(g) of the Constitution of India. The relevant paragraphs of **Intellectuals Forum** (*supra-5*) are reproduced as under:

"67. The responsibility of the State to protect the environment is now a well-accepted notion in all countries. It is this notion that, in international law, gave rise to the principle of "State responsibility" for pollution emanating within one's own territories (Corfu Channel case [ICJ Rep (1949) 4]). This responsibility is clearly enunciated in the United Nations Conference on the Human Environment, Stockholm 1972 (Stockholm Convention), to which India was a party. The relevant clause of this declaration in the present context is para 2, which states:

"The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate."

[7] AIR 2006 SC 1350; (2006) 3 SCC 549
[8] (2019) 4 SCC 500

> Thus, there is no doubt about the fact that there is a responsibility bestowed upon the Government to protect and preserve the tanks, which are an important part of the environment of the area."

13. The petitioner's fundamental right to shelter, if any, does not extend to the right to encroach in view of the pleading in the counter affidavit that the petitioner owns another house in the village vide D.No. 1-20. No doubt, while the right to shelter is indeed a fundamental right, it is not absolute and cannot be exercised at the cost of public property or ecological assets. This exact proposition was dealt with by the Hon'ble Apex Court in the **Olga Tellis** case (*supra*-1), observing as under:

> "57. … no person has a right to encroach, by erecting a structure or otherwise, on footpaths, pavements or any other place reserved or earmarked for a public purpose like, for example, a garden or a playground; that the provision contained in Section 314 of the Bombay Municipal Corporation Act is not unreasonable in the circumstances of the case."

14. Similarly, in **Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan & Ors**.[9] as well, the Hon'ble Apex Court clarified that the right to life and shelter does not grant any citizen the fundamental right to encroach upon public roads, pavements, or public utility lands. The Court observed that while the State has an obligation to formulate housing schemes, an encroacher cannot hold the public land to ransom by claiming a fundamental right to reside on encroached property. The relevant paragraph is extracted below:

> "13. …It would, therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpaths, pavements or public streets or any other place reserved or earmarked for a public purpose, the State has the constitutional duty to provide adequate

[9] (1997) 11 SCC 121

> facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and fruitful."

15. In **Chunni Lala and Ors. Vss State of Haryana**[10], it was held that unauthorised occupation of public pathways, drains, and canals cannot be protected under the guise of equity. Statutory authorities are duty-bound to clear such encroachments. The relevant paragraph is reproduced as under:

> "12. Right to shelter is considered to be a fundamental right to life. Food, shelter and clothing are the minimum human rights. …Problem of homeless people is globally recognised and global strategies have been framed for the purpose. Absence of sufficient housing facilities to meet the ever-growing demand of the population is leading to slums which have been ignored either on account of negligence or extraneous considerations. … At the same time, public property cannot be allowed to be encroached and concerned authorities have to ensure constant vigilance on encroachment. No right can be claimed to encroach upon public property. Once encroachment is allowed for a long period, authorities are required to act fairly. It may not be necessary, as a condition for ejectment of the encroacher, that he must be provided with an alternative accommodation at the expense of the State. In Ahmedabad Municipal Corporation's case (supra), it was observed in para 29: "Normally, the court may not, as a rule, direct that the encroachers should be provided with an alternative accommodation before ejectment when they encroached public properties……." It was observed that it is for the authorities to prepare appropriate schemes."

16. Similarly, in **Rameshbhai Revabahi Raval Vs The Director of Municipalities**[11], it was held that encroachers have no legal right to seek injunctions against statutory authorities discharging their duty of clearing public lands. A wrongdoer cannot seek the protective umbrella of Article 226

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[10] AIR 2004 P&H 59
[11] C/SCA/17640/2024

of the Constitution of India to perpetuate an illegality. The High Court referred to its previous judgment of **Vora Zakirhusain Valibhai vs State of Gujarat,**[12] wherein it was held as under:

> "25. Deciding a litigation of the present nature is quite painful. The weaker sections of the society like the writ applicants in the present case, no doubt, have the basic human and constitutional right to shelter and it becomes the paramount duty of the State to fulfill those. However, it gives no person the right to encroach and erect structures or otherwise on footpaths, pavements or public space or at any place reserved or earmarked for a seems public to utility.

Thus, a conspectus of the authorities referred to supra, the right to shelter does not encompass the right to encroach upon any public water body. The equitable and discretionary jurisdiction under Art 226 of the Constitution of India would not be extended to such an individual.

17. Applying the law to the present case at hand, the petitioner's contention that he has been paying property tax and holds a Gram Panchayat license does not generate an equitable right in his favour. This Court finds no merit in this submission. Payment of property tax, electricity bills, or obtaining local licenses does neither confer title, nor does it legitimise an illegal encroachment on Government land.

18. It is not the case of the petitioner that he was assigned a patta, registered sale deed, or recognised grant. In para 3 of the affidavit, it was pleaded that the petitioner is the absolute owner and possessor of a small thatched shed merit no consideration. As noted supra, where the land is undisputedly Government land and the occupant is admittedly an encroacher without any colour of title, the State is perfectly justified in invoking the summary eviction procedures under the Land Encroachment Act.

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[12] C/LPA/661/2020

19. Furthermore, under the A.P. Land Encroachment Act, 1905, all public roads, streets, canals, and water beds are deemed to be the property of the Government. The Tahsildar, acting as the competent revenue authority, is statutorily empowered, by following the procedure, to remove encroachments from any Government land. Indeed, the 5th respondent adhered to the procedure.

20. The record reveals that the 5th Respondent issued a Notice under Section 7 of the Act, 1905 on 27.01.2024; received the petitioner's explanation dated 31.01.2024, evaluated the joint survey report, and subsequently passed the reasoned order under Section 6 of the Act, 1905 on 13.06.2024. Therefore, there is no violation of the principles of natural justice. The land is vested with the 4th respondent; the 5th respondent, Tahsildar, has the jurisdiction to invoke the provisions of the A.P.Land Encroachment Act, 1905.

21. The land in dispute is a PWD Kaluva. It is a settled principle of law that water bodies and their appurtenant margins must be protected from encroachment. In fact, the petitioner has operated a commercial water plant and a shed. The petitioner cannot invoke socio-economic necessity as a defence for encroaching on the public properties.

22. For the reasons stated supra, this Court finds no legal infirmity in the impugned proceedings dated 13.06.2024 issued by the 5th Respondent. The Writ Petition is devoid of merit and is accordingly dismissed. The Respondent authorities shall take necessary steps as per the Law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE SUBBA REDDY SATTI

PVD