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APHC010639982025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3457]**
(Special Original Jurisdiction)

WEDNESDAY, THE 14th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 33239/2025

Between:

1. S HEMANAND, S/O. S. RAMA RAO, AGED ABOUT.25 YEARS, D.NO.54-8-21/1, OPPOSITE INDIAN OIL PETROL BUNK STREET, ISUKATHOTA, VISAKHAPATNAM, VISAKHAPATNAM DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF MUNICIPAL ADMINISTRATION URBAN DEVELOPMENT AUTHORITY, SECRETARIAT OF AP, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.
2. THE GREATER VISAKHAPATNAM MUNICIPAL CORPORATION, REP. BY ITS COMMISSIONER, VISAKHAPATNAM, VISAKHAPATNAM DISTRICT
3. THE ZONAL COMMISSIONER, ZONE-3, GREATER VISAKHAPATNAM MUNICIPAL CORPORATION, VISAKHAPATNAM VISAKHAPATNAM DISTRICT.
4. THE TOWN SURVEYOR, GREATER VISAKHAPATNAM MUNICIPAL CORPORATION VISAKHAPATNAM, VISAKHAPATNAM DISTRICT.
5. B VARALAKSHMI, W/O. B. NAGESWARA RAO, AGED ABOUT 60 YEARS, R/O. D. NO. 54-8-20, ISUKATHOTA, VISAKHAPATNAM-530022, VISAKHAPATNAM DISTRICT. R5 IS IMPLEADED IN WRIT PETITION AND AFFIDAVIT AS PER COURT'S ORDER DT. 02/12/2025 IN I.A.NO. 2 OF 2025.

...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 toPleased to issue Writ, or order or direction more particularly one in the nature of Writ of Mandamus declaring the speaking order passed by the 2nd respondent vide File R.C.No.1235/2024/ACP-III Dt.19.10.2024 directing the petitioner to submit the revised plan as per the Hon'ble court commission order duly showing 7th feet conservancy lane is as illegal, arbitrary Highhanded and contrary to the order passed in lA.No. 1728/2006 Os. No.3588/2003 Dt.22.01.2007 and also violation of Article 14 and 21 of Constitution of India and the provisions of AP Municipal Corporation Act,

1955 and consequently direct the respondents to permit the petitioner to construct the building as per the building permit order Vide Building permit No.1086/3790/B//23/ITA/2022 Dt.03.01.2023 by setting aside the impunged speaking order Dt.19.10.2024 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 Pleased to direct the respondents to permit the petitioner to complete the construction of the residential building as per the sanctioned plan Dt.03.01.2023 by suspending the impugned speaking order passed by the 2nd respondent vide file R.C.NO.1235/2024/ACP-III Dt.19,10.2024 pending writ petition in this Hon'ble Court and pass

IA NO: 2 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 may be pleased to implead the proposed respondent as party respondent No.5 in the W.P.No. 33239 of 2025 as I.A.No.1 of 2025 and pass

IA NO: 1 OF 2026

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 May be pleased to grant leave to file counter affidavit in Writ Petition No. 33239 of 2025 filed by the petitioner/ Respondent-5 in the interest of justice and pass

IA NO: 2 OF 2026

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 May be pleased to receive the Counter copies on record by allowing the leave petition in the above Writ Petition and pass

Counsel for the Petitioner:

1. S LAKSHMINARAYANA REDDY

Counsel for the Respondent(S):

1. V CH NAIDU
2. A S C BOSE (SC FOR MUNICIPAL CORPORATIONS AP)
3. GP MUNCIPAL ADMN AND URBAN DEV AP

The Court made the following:

THE HONOURABLE SRI JUSTICE HARINATH.N
WRIT PETITIONNo.33239 of 2025

ORDER:

1. The petitioner challenges the speaking order passed by respondent No.2 dated 19.10.2024, directing the petitioner to submit a revised plan showing a 7-foot conservation lane.
2. It is submitted that, as per the said Town Surveyor Report dated 14.10.2024, no such conservation lane exists; therefore, the petitioner is not required to submit a revised plan showing the conservation lane.
3. Learned counsel for the petitioner submits that the petitioner is the absolute owner and possessor of the site measuring 236 square yards, on which a building with an RCC structure and ACC sheets stands. The said property is situated at Maddipalem Village, Visakhapatnam. It is submitted that the petitioner acquired the said property by registered Gift Deed dated 20.11.2021, executed by the petitioner's father, who in turn acquired it through a registered partition deed dated 29.06.2019. The petitioner's father had partitioned the property with his brother, and the subject property is now in the possession and enjoyment of the petitioner.
4. It is submitted that the petitioner, intending to demolish the old RCC structure, which was in a dilapidated condition, applied for building permission and, after approval under the building permit order dated 03.11.2023, commenced construction. While things stood thus, the respondent No.2 issued a show cause notice in April 2023, requiring the

petitioner to submit an explanation to the 5th respondent's allegation that the petitioner had encroached on the conservancy lane. It is submitted that the petitioner has submitted an explanation clarifying that no conservancy lane existed and has also annexed copies of the title documents, along with the bank document, for the respondent authorities' perusal.

5. It is also submitted that the petitioner had referred to the report of the Advocate Commissioner appointed in I.A.No.1728 of 2026 in O.S.No.3588 of 2023 on the file of the First Additional Junior Civil Judge, Visakhapatnam. The petitioner has relied on the Advocate Commissioner's report, which found that no conservancy lane existed. The Town Surveyor's report is contrary to the Advocate Commissioner's report. It is also submitted that, aggrieved by the respondent authorities' actions, the petitioner filed W.P.No.24687 of 2023, which was disposed off on 21.09.2023 by directing the respondents to consider the petitioner's explanation and pass appropriate orders. The petitioner also filed C.C.No.511 of 2024, alleging inaction on the part of the respondent authorities in complying with the directions passed by this Court in W.P.No.24687 of 2023. Thereafter the petitioner was called upon to submit his documents and also attend the enquiry on 21.09.2024 before the second respondent.
6. It is submitted that the petitioner has submitted all the documents, including the report of the Advocate Commissioner, submitted in

I.A.No.1728 of 2026 in O.S.No.3588 of 2003. However, the respondent No.2 passed the impugned order dated 19.10.2024, requiring the petitioner to submit a revised plan showing a 7-foot conservancy lane on the west side of the petitioner's property. Aggrieved by the speaking order, the present petition is filed.

7. The learned standing counsel for the respondent No.2 submits that a detailed counter has been filed and that the respondent has physically verified the ground situation, and it is found that there is no construction as on date. It is also submitted by the learned standing counsel that the petitioner is trying to encroach on the 7-foot Conservancy lane which is used by the 5th respondent for Ingress and Egress and that the respondent No.5 is a party defendant in O.S.No.3588 of 2003. It is also submitted that a larger extent of land was divided into house plots with specific uniform measurements admeasuring 26 feet and 35 feet by leaving 7 feet common Conservancy lane on the western side of each plot and that this was found out by the respondent authorities after conducting a physical inspection of the subject site. It is submitted that the petitioner has approached this court with unclean hands; therefore, the writ petition deserves dismissal.

8. The learned counsel appearing for respondent No. 5 submits that a detailed counter has been filed and it is submitted that the respondent No.5's father purchased the plot in the year 1968 and thereafter executed a registered Gift Deed in favour of the respondent No. 4 in the

year 2003 and the documents would show the existence of the 7 feet wide conservancy lane. It is also submitted that the petitioner's grandfather filed O.S.No.3588 of 2003 seeking a mandatory injunction against the petitioner's father and directing restoration of the 7-foot-wide common conservancy Lane, and that the said suit was dismissed with costs. Now the petitioner has taken an opposite stand, claims that there is no conservancy lane, and intends to encroach upon it under the guise of demolishing the old structure and constructing a new building.

9. Heard the learned counsel for the petitioner, the learned standing counsel for the respondent authorities, and the learned counsel appearing for Respondent No. 5. Perused the material on record.

10. The petitioner has raised several disputed questions of fact, the dispute relating to the 7-foot conservancy lane is dating back to 2003. Civil Suit was initiated and O.S.No.3588 of 2003 was decided on merits. The respondent-municipality has issued a speaking order after verifying the subject disputed plot. The disputed question on the existence or otherwise of the 7-foot lane is purely a civil dispute between the petitioner and the respondent No.5. The competent respondent has conducted the inspection and enquiry and thereafter passed orders requiring the petitioner to comply with certain observations as notified by the impugned speaking order.

11. This Court cannot determine the dispute between the petitioner and the respondent No.5 concerning the existence of 7-foot conservancy lane.

As such, it is upto the parties to approach the competent Court as so advised. With the material on record, this Court cannot interfere with the impugned proceedings.

12. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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

JUSTICE HARINATH.N

Dated 14.10.2026
KGM
Whether the order is:

Speaking		Reasoned	☑
Reportable		Non-reportable	☑

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION No.33239 of 2025
Dated 14.10.2026

KGM