

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE R.SUBHASH REDDY**

**WRIT PETITION NO: 22004 of 1994**

Between:

S.T.Ruhani, S/o.Gafoo,r  
R/o.H.No.4-126/A-5, Santhagate, A.P. High School Road,  
Madanapalle, Chittoor District.

**..... PETITIONER**

AND

- 1 The Mandal Revenue Officer,  
Madanapalle, Chittoor District.
- 2 The Madanapalle Municipality, Rep.by its Commissioner,  
Madanapalle, Chittoor District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more in the nature of Writ of Mandamus, declaring the action of the respondents in threatening to demolish the house of the petitioner bearing Door.No.4-126/A-6,Santhagate, Z.P. High School Road, Madanapalle, with an adjacent bank etc., in survey No.276/B of Madanapalle Municipality as highly illegal, wholly arbitrary and unconstitutional and is violative of Arts.14 and 21 of the Constitution of India, and consequently direct the respondents not to dispossess the petitioner from the said property either by resorting to demolition activity or otherwise unless and until the petitioner is evicted by due process of law or his representations are disposed off.

**Counsel for the Petitioner: MR.D.RAMESH**

**Counsel for the Respondents: GOVERNMENT PLEADER FOR REVENUE**

**The Court made the following:**

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**ORDER:**

This writ petition is filed seeking a writ of Mandamus to declare the action of the respondents in taking steps to demolish the house of the petitioner bearing D.No.4-126/A-6 situated in Santhagate, Z.P. High School Road, Madanapalle, as arbitrary and illegal.

In a nut-shell, it is the case of the petitioner that he has been in possession and enjoyment of the land in Sy.No.276/B of Madanapalle Municipality for more than 20 years and has constructed a house bearing D.No.4-126/A-6 therein. It is further stated that he made several representations to the respondents for assignment of the said land, to which he is entitled to, but the same was not looked into. It is also stated that when the second respondent was taking steps to demolish the said house without following the due process of law, he filed O.S.No.11 of 1992 on the file of the Principal District Munsif, Madanapalle, and obtained interim injunction.

In the counter-affidavit filed on behalf of the respondents, it is stated that the petitioner has encroached into the land of the Weekly Market site in Sy.No.276/B/1-B of B.K.Palle Village and as the said encroachment is an illegal one, steps were taken by following due process of law, to remove the unauthorized construction, by booking

an encroachment case against the petitioner in E.R.No.1/92 and notices were also issued to the petitioner as contemplated under Sections-192, 193 and 336 of the A.P. Municipalities Act. It is further stated that when steps were taken by the respondents to remove the unauthorized constructions in the said land, the petitioner has filed O.S.No.11 of 1992 on the file of the Principal District Munsif, Madanapalle, and obtained injunction orders.

In view of the averments made in the counter-affidavit that as the petitioner has encroached into the land in question, steps were taken to remove the unauthorized construction by initiating proceedings under the A.P. Municipalities Act, it cannot be said that the steps taken by the respondents are illegal and arbitrary. Admittedly, in the present case, the petitioner has already approached the Civil Court by filing O.S. and the same is pending, and therefore, again he cannot file this writ petition for the identical relief. Even though it is his case that he is in longstanding possession and enjoyment of the said land and as such acquired rights on it, it is for him to establish his rights on the said land in the suit, which is already filed inasmuch as in the counter-affidavit filed on behalf of the respondents it is stated that the said piece of land is part of the Weekly Market site and the petitioner has encroached into the same.

In that view of the matter, no relief, as prayed for, can be granted in this writ petition. The writ petition is devoid of merits and is liable to be dismissed.

However, the Court below shall dispose of the suit filed by the petitioner with reference to its own merits without being influenced by any of the observations made in this order.

Subject to the above observations, the writ petition is dismissed. No order as to costs.

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R.SUBHASH REDDY, J

17.01.2005

DR

To

- 1 The Mandal Revenue Officer,  
Madanapalle, Chittoor District.
- 2 The Commissioner, Madanapalle Municipality,  
Madanapalle, Chittoor District.
- 3 2CCs to Government Pleader for Revenue, High Court Buildings, Hyderabad.  
(OUT)
- 4 2CD copies.