

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

FRIDAY, THE TWENTY NINTH DAY OF NOVEMBER

TWO THOUSAND AND TWENTY FOUR

PRESENT

HONOURABLE SRI JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

AND

HONOURABLE SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA

WRIT APPEAL NO: 345 OF 2023

Writ Appeal under clause 15 of the Letters Patent against the order dated 09.02.2023 in WP No. 35936 of 2022 on the file of the High Court.

**Between:**

The Gram Panchayat, Kasimkota, Rep by its Panchayat Secretary, Kasimkota Village, and Mandal, Anakapalle District.

...APPELLANT/RESPONDENT No.5

AND

1. Sri Vegi Papa Rao, S/o late Latchnna, Hindu, Aged about 45 years, R/o 19-119, Kallaladibba, Kasimkota, Anakapalle District.
2. Smt. Doddi Sridevi, W/o late Eswararao, Hindu, Aged about 51 years, R/o 22-89, Kallaladibba, Kasimkota, Anakapalle Mandal.
3. Pedapati Venkata Lakshmi, W/o Nageswararao, Aged about 58 years, R/o D.No.23-50, Medara Veedhi Kanaka Maha Lakshmi Street, Kasim Kota, Anakapalle District.
4. The State of Andhra Pradesh, rep by the Principal Secretary, Panchayat Raj and Rural Development, Secretariat, Velagapudi, Guntur District.
5. The Commissioner, AP Panchayat Raj, Velagapudi, Guntur District.
6. The District Collector and Magistrate, Anakapalle District.
7. The District Panchayat Officer, Anakapalle District.

(Respondent Nos.4 to 7 not necessary parties to this Appeal)

...RESPONDENTS



**IA NO: 2 OF 2023**

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 suspend the order dt. 09.02.2023 in WP.No.35936/2022 pending disposal of the writ appeal.

**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 suspend the operation of the order of the Learned Single Judge in W.P.No.35936 of 2022 dated 09-02-2023.

**Counsel for the Appellant: SRI S. PRANATHI, Spl. GP**

**Counsel for the Respondent Nos.1 to 3:SRI V. V. RAVI PRASAD**

**Counsel for the Respondent Nos.4 to 7:---**

**The Court made the following: JUDGMENT**



IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI

Bench  
Sr.No: 41  
[3496]

WRIT APPEAL NO: 345 of 2023

The Gram Panchayat, Kasimkota

...Appellant

Vs.

Sri Vegi Paparao and others

...Respondents

\*\*\*\*\*

Advocate for Appellant : Mrs. S. Pranathi, Spl. G.P.

Advocate for Respondents : Mr. V. V. Ravi Prasad

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR  
SMT JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**DATE : 29-11-24.**

**Per DHIRAJ SINGH THAKUR, CJ:**

The present Writ Appeal filed under Clause 15 of the Letters Patent has been preferred against judgment and order, dated 09.02.2023, passed in W.P.No.35936 of 2022, whereby, while allowing the Writ Petition, directions have been issued to the Gram Panchayat/Appellant to put the petitioners/respondents herein in possession of the lands taken away from them.



2. Briefly stated the material facts are as under;

The petitioners claim that they were in possession of small parcels of land measuring 59, 53 and 35 Sq.yds. respectively in Sy.No.110/1 of Kasimkota Village on which shops had been constructed and wherefrom the petitioners have been running their respective businesses over decades and earning their livelihood. Their shops were subjected to some tax by the Gram Panchayat of Kasimkota. In the previous round of litigation, the petitioners filed W.P.No.10477 of 2020 when they apprehended demolition of their shops without notice by the Gram Panchayat on the ground that they were encroachers of the land belonging to the Gram Panchayat.

During the pendency of the said petition, Show Cause Notices, dated 26.06.2020, were issued to the petitioners who submitted their response thereto. The said replies are stated to have been duly acknowledged on 29.06.2020. In view of the fact that the notices had been issued and the replies were submitted, the said petition was disposed of by virtue of judgment and order, dated 12.10.2020, giving liberty to the petitioners to submit their detailed explanation with regard to the nature of the land and the jurisdiction of Gram Panchayat to issue the notices, dated 25.06.2020, within three weeks from the date of receipt of the order.

The order further envisaged that upon receipt of the explanation, the Gram Panchayat was to deal with the same and pass orders in accordance with law. Till the explanation was dealt with and appropriate orders were

passed, the Gram Panchayat was directed not to take any coercive steps against the shops of the petitioners.

The case of the petitioners before the learned single Judge was that having received the reply to the Show Cause Notices, with a pre-meditated intention of demolishing the shops, yet another notice of demolition, dated 21.10.2022, was issued purportedly in terms of the order, dated 25.06.2020. The notice treated the petitioners as encroachers and required the petitioners to remove the encroachments/structures within three days from the date of receipt of the said notice, failing which the shops were to be removed in terms of the powers vested in the Gram Panchayat under the Panchayat Raj Act, 1994.

Needless to say that the removal of the so-called encroachments by the petitioners was with a view to give effect to the decision of the Gram Panchayat, dated 21.10.2022, to construct a community hall at the said location.

On receipt of the notice, the petitioners claim that they submitted a reply which was served upon the respondents on 22.10.2022, which was acknowledged by the appellant and that without bothering to consider the explanation rendered earlier and the reply to the notice, dated 21.10.2022, submitted by the petitioners, the appellant proceeded to demolish the structures in question.

The petitioners in those circumstances sought appropriate relief declaring the action of the respondents in forcibly dispossessing the petitioners from their shops in Kasimkota Village as being in violation of principles of natural justice as also the directions of this Court passed in W.P.No.10477 of 2020, dated 12.10.2020. The petitioners further sought, *inter alia*, a direction to the Gram Panchayat to restore the possession of the area covered under the shops and further sought a direction to prohibit the appellant from undertaking any construction activity over the land in question.

The aforementioned petition came to be allowed by virtue of the judgment and order impugned on the ground that lands described as Grama Kantam do not vest in the Gram Panchayat and therefore the action of the Gram Panchayat in demolishing the shops of the petitioners and evicting them from the lands in their possession was clearly without jurisdiction and authority of law and violative of the rights of the petitioners under Article 300A of the Constitution of India.

The directions were thus issued to put the petitioners in possession of the land taken away from them within one week and to reconstruct the demolished shops within a period of nine months.



Restitution of the possession was based on the principles laid down in the case of ***Bhavani Mahila Trust Vs. State of Andhra Pradesh and others***<sup>1</sup>.

3. Learned counsel for the appellant, Mrs. S. Pranathi, would submit that the judgment and order impugned is unsustainable in law inasmuch as it was incorrect to suggest that principles of natural justice had been violated by the appellant before ordering demolition of the illegal encroachments. It was urged that notices were issued and reply was considered before demolition of the illegal encroachments.

This stand of the appellant, however, is contrary to the stand of the appellant before the learned single Judge where it was sought to be projected that the reply submitted by the petitioners was not received. This was belied on the basis of the stamps of the acknowledgment found on the replies given by the petitioners as also the postal acknowledgment card in respect of the reply of the petitioners, dated 29.06.2020.

4. In any case, the judgment and order passed by the learned single Judge in the earlier round of litigation in W.P.No.10477 of 2020 clearly and unambiguously mandated the respondents to consider the explanation submitted by the petitioners in regard to notices, dated 25.06.2020, to deal with the same and pass appropriate orders in accordance with law.

---

<sup>1</sup> 2022 (4) ALD 37 (AP)

5. Nothing has been placed on record to show that the said direction was complied with inasmuch as no order of consideration based upon the explanation has been placed on record for our perusal. The action of the appellant was not only in violation of principles of natural justice but also contrary to the directions issued by this Court in the earlier round of litigation.

6. Notwithstanding the above, the basic question that arises for our consideration is whether the Gram Panchayat had any jurisdiction at all to deal with the land which was in possession and occupation of the petitioners. The learned single Judge has recorded a finding that the parcels of land in possession of the petitioners was Grama Kantam land which did not vest in the Gram Panchayat. This finding has been recorded on the basis of judgments of this Court in **Banne Gandhi and others Vs. District Collector, Ranga Reddy District and others**<sup>2</sup>, **Bayya Mahadeva Sastry Vs. State of Andhra Pradesh**<sup>3</sup> & **Sigadapu Vijaya Vs. State of Andhra Pradesh**<sup>4</sup>

7. The basis for the Courts in the cases supra to hold that the Gram Panchayat had no jurisdiction or authority to demolish the shops constructed in land which did not belong to the Gram Panchayat lay in Section 58(1) of the A.P. Panchayat Raj Act, 1994, which conspicuously did not contain within its ambit and purview the Grama Kantam land.

---

<sup>2</sup> 2007 (4) ALD 374

<sup>3</sup> 2020 (6) ALD 353 (AP)

<sup>4</sup> 2015 (4) ALD 88



For facility of reference, Section 58(1) as it existed before its amendment read thus:

*"58. Certain Government porambokes to vest in gram panchayat etc-*

*(1) The following porambokes namely grazing grounds, threshing floors, burning and burial grounds, cattle stands, cart-stands and topes, which are at the disposal of the Government and are not required by them for any specific purpose shall vest in the gram panchayat subject to such restrictions and control as may be prescribed."*

8. Learned counsel for the appellant, however, stated that the learned single Judge committed an error in not noticing that Section 58 had been amended by virtue of Act No.14 of 2021, which was notified on 20.12.2021 and provided as under:

*"3. In the principal Act, in Section 58, in sub-section (1), after the words "Cart Stands", the words "vacant and unoccupied land of Grama Kantam" shall be inserted."*

After the amendment, Section 58(1) would read as under:

*"58. Certain Government porambokes to vest in gram panchayat etc-*

*(1) The following porambokes namely grazing grounds, threshing floors, burning and burial grounds, cattle stands, cart-stands and topes, vacant and unoccupied land of Grama Kantam, which are at the disposal of the Government and are not required by them for any specific purpose shall vest in the gram panchayat subject to such restrictions and control as may be prescribed."*

9. It was thus sought to be urged that since Grama Kantam land vested with the Gram Panchayat, it had all the authority in law to exercise control and evict the encroachers, if any, over the said Grama Kantam land. It

was also urged that the eviction was mandatory in view of the directions issued in PIL No.140 of 2022 & batch, dated 14.09.2022, and the Rules namely the Andhra Pradesh Gram Panchayats (Protection of Property) Rules, 2011, notified by the Government of Andhra Pradesh, which *inter alia* envisage eviction of encroachments over the property belonging to the Gram Panchayat.

The said Rules and the judgment had their basis in the judgment and order passed by the Hon'ble Supreme Court in the case of **Jagpal Singh and others Vs. State of Punjab and others**<sup>5</sup>.

10. Learned counsel for the petitioners/respondents herein, on the other hand, would submit that even after the amendment of Section 58(1) of the Act, 1994, only such Grama Kantam land which was vacant and unoccupied would be deemed to vest in the Gram Panchayat and since the Grama Kantam land which was in possession of the petitioners was neither vacant nor unoccupied, the said parcels of land would be outside the purview of the Act, 1994, and therefore the Gram Panchayat would have no authority of law to take any action in regard to such a Grama Kantam land much less had any authority of law to evict the petitioners from their shops in question or demolish their structures erected thereupon.

11. We find considerable force in the argument of learned counsel for the respondents, Mr. V. V. Ravi Prasad. On a bare reading of the amended

---

<sup>5</sup> 2011 (11) SCC 398

provision of Section 58(1), it is clear that only vacant and unoccupied Grama Kantam land would vest in the Gram Panchayat over which it could exercise control and impose restrictions.

12. In our opinion, therefore, the action of the appellant in evicting the petitioners from the land in question and the action of demolishing the structures constructed thereupon was not only in gross violation of principles of natural justice and the principles enshrined under Article 300A of the Constitution of India but also without jurisdiction and in gross violation of the directions issued by the learned single Judge in the earlier writ proceedings.

13. Having declared the action of the appellant as illegal and without jurisdiction, it is the duty of the constitutional courts to ensure that measures are taken to address the consequences of arbitrary and illegal actions of the appellant.

At this stage, it may be pertinent to refer to a recent judgment of the Apex Court rendered in **Manoj Kumar Vs. Union of India**<sup>6</sup>, wherein it was held:

*"20. We are of the opinion that while the primary duty of constitutional courts remains the control of power, including setting aside of administrative actions that may be illegal or arbitrary, it must be acknowledged that such measures may not singularly address repercussions of abuse of power. It is equally incumbent upon the courts, as a secondary measure, to address the injurious consequences arising from arbitrary and illegal actions. This concomitant duty to take reasonable measures to resituate the injured is our overarching constitutional purpose.*

---

<sup>6</sup> 2024 (3) SCC 563



*This is how we have read our constitutional text, and this is how we have built our precedents on the basis of our preambular objective to secure justice."*

14. For the reasons mentioned hereinabove, the present appeal is found to be without any merit and is accordingly dismissed. No costs.

Consequently, connected miscellaneous applications, if any, shall stand closed.

//TRUE COPY//

Sd/- M.RAMESH BABU  
DEPUTY REGISTRAR

SECTION OFFICER

To,

1. One CC to Sri S. Pranathi, Spl. GP, High Court of A.P. [OUT]—
2. One CC to Sri V. V. Ravi Prasad, Advocate [OPUC] ✓
3. Three CD Copies.

ssb

**HIGH COURT**

**DATED:29/11/2024**

**JUDGMENT**

**WA.No.345 of 2023**



**DISMISSING THE W.A. WITHOUT COSTS**