IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

****

WRIT PETITION No. 10909/2026

Between:

1. R P KOUSALYA, W/O. R.P. RAGHAVENDRA, AGED ABOUT 45 YEARS, OCC HOUSEWIFE, R/O. H. NO. M.I.G. 401, A.P. HOUSING BOARD COLONY, ADONI TOWN, KURNOOL DISTRICT.

...PETITIONER

AND

1. THE STATE OF AP, REP. BY ITS PRINCIPAL SECRETARY, MUNICIPAL ADMINISTRATION AND RURAL DEVELOPMENT DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI-522307.
2. THE SUBCOILECTOR, ADONI DIVISION, ADONI-518301.
3. THE ADONI MUNICIPALITY, REP. BY ITS COMMISSIONER, ADONI, KURNOOL DISTRICT-518301.
4. THE TAHSILDAR, ADONI, KURNOOL DISTRICT-518301.

...RESPONDENT(S):

DATE OF JUDGMENT PRONOUNCED**: 04.05.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

1. Whether Reporters of Local Newspapers may be allowed to see the judgment? Yes / No
2. Whether the copies of judgment may be marked to Law Reporters / Journals? Yes / No
3. Whether His Lordship wish to see the fair copy of the Judgment? Yes / No

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GANNAMANENI RAMAKRISHNA PRASAD, J

*** THE HON'BLE SRI JUSTICE G. RAMAKRISHNA PRASAD**

+ WRIT PETITION No. 10909/2026

% 04.05.2026

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4. THE TAHSILDAR, ADONI, KURNOOL DISTRICT-518301.

...RESPONDENT(S):

! Counsel for Petitioner : Ms. P. Padmavathi, learned Counsel for the Writ Petitioner

^ Counsel for Respondents : Sri M. Srinu Babu, learned Assistant Government Pleader for Municipal Administration & Urban Development, Sri B. Ramesh, learned Assistant Government Pleader for Revenue and Sri Gudapati Lakshminarayana, learned Standing Counsel for Respondent No.3

< Gist:

> Head Note:

? Cases referred: (1997) 11 SCC 121

APHC010190572026

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

MONDAY,THE FOURTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION NO: 10909/2026

Between:

1. R P KOUSALYA, W/O. R.P. RAGHAVENDRA, AGED ABOUT 45 YEARS, OCC HOUSEWIFE, R/O. H. NO. M.I.G. 401, A.P. HOUSING BOARD COLONY, ADONI TOWN, KURNOOL DISTRICT.

...PETITIONER

AND

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4. THE TAHSILDAR, ADONI, KURNOOL DISTRICT-518301.

...RESPONDENT(S):

Counsel for the Petitioner:

1. P PADMAVATHI

Counsel for the Respondent(S):

1. GP FOR REVENUE
2. GP MUNCIPAL ADMN AND URBAN DEV AP

The Court made the following:

ORAL ORDER:

Heard Ms. P. Padmavathi, learned Counsel for the Writ Petitioner, Sri M. Srinu Babu, learned Assistant Government Pleader for Municipal Administration & Urban Development, Sri B. Ramesh, learned Assistant Government Pleader for Revenue and Sri Gudapati Lakshminarayana, learned Standing Counsel for Respondent No.3.

2. Prayer sought in this Writ Petition is as under:

> *"……to issue an appropriate writ, order or direction more particularly a writ of Mandamus, declaring the inaction on the part of the respondents in initiating the necessary action and removing the temporary sheds constructed on the 33 feet colony road in Plot no.68 C in Sy.No.378/B, admeasuring 433.33 Sq. Yards belonging to the petitioner 21 Ward, LIC Colony, within the limits of Adoni Municipality, Adoni Sub-Division, Kurnool District, as illegal, arbitrary and violative of the mandate of Article 300-A of the Constitution of India and consequently direct the respondents to remove the temporary sheds constructed on the 33 feet colony road in Plot no.68 C in Sy.No.378/B, admeasuring 433.33 Sq. Yards belonging to the petitioner 21 Ward, LIC Colony, within the limits of Adoni Municipality, Adoni Sub-Division, Kurnool District and pass such other order or orders as this Hon'ble court deems 'Just' and 'Proper' in the circumstances of the case and in the interest of justice."*

3. On 24.04.2026, the Commissioner had rendered Written Instructions to the effect that the encroachment by the encroachers on the 33 feet wide layout road (in L.P.No.3/83) had reduced the effective road width to approximately 10 to 15 feet only and that the said reduction is causing significant hurdles for the movement of vehicles and is restricting access to the plot belonging to the Writ Petitioner bearing No.68C. When time was granted to the Respondents on 27.04.2026, Sri Gudapati Lakshminarayana, learned Standing Counsel for Respondent No.3, has submitted the Proceedings issued by the Commissioner to the Tahsildar dated 27.04.2026, requesting the Tahsildar to explore the possibility of allotting alternate sites to the inhabitants. In any case, the law is not in support of the stand taken by the Commissioner that the alternate sites should be allotted to the encroachers, inasmuch as such allotments would embolden prospective

encroachers and be detrimental to the public interest. The view of this Court is fortified by the Judgment of the Hon'ble Apex Court in ***Ahmedabad Municipal Corporation Vs. Nawab Khan Gulab Khan*** : (1997) 11 SCC 121. Relevant portion of the Judgment is usefully extracted hereunder:

> *"10. The Constitution does not put an absolute embargo on the deprivation of life or personal liberty but such a deprivation must be according to the procedure, in the given circumstances, fair and reasonable. To become fair, just and reasonable, it would not be enough that the procedure prescribed in law is a formality. It must be pragmatic and realistic to meet the given fact-situation. No inflexible rule of hearing and due application of mind can be insisted upon in every or all cases. Each case depends upon its own backdrop. The removal of encroachment needs urgent action. But in this behalf what requires to be done by the competent authority is to ensure constant vigil on encroachment of the public places. Sooner the encroachment is removed when sighted, better would be the facilities or convenience for passing or repassing of the pedestrians on the pavements or footpaths facilitating free flow of regulated traffic on the road or use of public places. On the contrary, the longer the delay, the greater will be the danger of permitting the encroachers claiming semblance of right to obstruct removal of the encroachment. If the encroachment is of a recent origin the need to follow the procedure of principle of natural justice could be obviated in that no one has a right to encroach upon the public property and claim the procedure of opportunity of hearing which would be a tedious and time-consuming process leading to putting a premium for high-handed and unauthorised acts of encroachment and unlawful squatting.* ***On the other hand, if the Corporation allows settlement of encroachers for a long time for reasons best known to them, and reasons are not far to seek, then necessarily a modicum of reasonable notice for removal, say two weeks or 10 days, and personal service on the encroachers or substituted service by fixing notice on the property is necessary. If the encroachment is not removed within the specified time, the competent authority would be at liberty to have it removed. That would meet the fairness of procedure and principle of giving opportunity to remove the encroachment voluntarily by the encroachers. On their resistance, necessarily appropriate and reasonable force can be used to have the encroachment removed. Thus considered, we hold that the action taken by the appellant-Corporation is not violative of the principle of natural justice****.*
>
> ***11 to 29 xxxxxxxxxxx***

30. Encroachment of public property undoubtedly obstructs and upsets planned development, ecology and sanitation. Public property needs to be preserved and protected. It is but the duty of the State and local bodies to ensure the same. This would answer the second question. As regards the fourth question, it is to reiterate that judicial review is the basic structure of the Constitution. Every citizen has a fundamental right to redress the perceived legal injury through judicial process. The encroachers are no exceptions to that constitutional right to judicial redressal. *The constitutional court, therefore, has a constitutional duty as sentinel on the qui vive to enforce the right of a citizen when he approaches the court for perceived legal injury, provided he establishes that he has a right to remedy. When an encroacher approaches the court, the court is required to examine whether the encroacher had any right and to what extent he would be given protection and relief. In that behalf, it is the salutary duty of the State or the local bodies or any instrumentality to assist the court by placing necessary factual position and legal setting for adjudication and for granting/refusing relief appropriate to the situation. Therefore, the mere fact that the encroachers have approached the court would be no ground to dismiss their cases. The contention of the appellant-Corporation that the intervention of the court would give impetus to the encroachers to abuse the judicial process is untenable. As held earlier, if the appellant-Corporation or any local body or the State acts with vigilance and prevents encroachment immediately, the need to follow the procedure enshrined as an inbuilt fair procedure would be obviated. But if they allow the encroachers to remain in settled possession sufficiently for a long time, which would be a fact to be established in an appropriate case, necessarily suitable procedure would be required to be adopted to meet the fact-situation and that, therefore, it would be for the respondent concerned and also for the petitioner to establish the respective claims and it is for the court to consider as to what would be the appropriate procedure required to be adopted in the given facts and circumstances.*

31. It is true that in all cases it may not be necessary, as a condition for ejectment of the encroacher, that he should be provided with an alternative accommodation at the expense of the State which if given due credence, is likely to result in abuse of the judicial process. But no absolute principle of universal application would be laid in this behalf. Each case is required to be examined on the given set of facts and appropriate direction or remedy be evolved by the court suitable to the facts of the case. 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, but, as stated earlier, each case requires examination and suitable direction appropriate to the facts requires modulation. Considered from this perspective, the apprehensions of the appellant are without force.*"*

(emphasis supplied)

4. This apart, no one has a right to obstruct a public-way. The Written Instruction would clearly indicate that the encroachments have created a 'bottle-neck' effect, thereby causing inconvenience to the general public. Private rights, if any, shall yield to Public Interest.

5. Having regard to the decision rendered by the Hon'ble Apex Court, this Court deems it appropriate to dispose of the Writ Petition with the following directions to Respondent No.3:

i. Show Cause Notice shall be issued to encroachers to vacate within 10 days or two weeks for dismantling and removing the encroachments;

ii. If the encroachers do not voluntarily vacate, the encroachment shall be cleared by the Official Respondents within a period of four weeks from today by using reasonable force, if necessary (Please see Para -10 in : (1997) 11 SCC 121 - extracted supra); and

iii. Before the expiry of five weeks, the Respondent No.3 shall clear the entire encroachments on the 33 feet wide layout road and make it available to the public for use.

6. With these observations and directions, this Writ Petition stands disposed of. No order as to costs. Since this Court has directed the Official Respondents to issue Show Cause Notices to all the alleged encroachers, it is clarified that the present Order would not in anyway violate the Principles of Natural Justice.

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

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GANNAMANENI RAMAKRISHNA PRASAD, J

Dt:04.05.2026

Note: L.R copy to be marked
B/O : Vns/JKS

HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

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