



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

[3332]

WEDNESDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 8338/2026

Between:

1.K.G VENKATESWARA RAO, S/O MAHESWARARAO, AGED 53
YEARS, R/O 2-57, KATTAVARI PALEM, MOGALAMURRU
DR.B.R.AMBEDKAR KONASEEMA DISTRICT.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS
PRINCIPAL SECRETARY, IRRIGATION DEPARTMENT,
SECRETARIAT BUILDINGS, VELAGAPUDI, THULLUR MANDAL,
GUNTUR DISTRICT. 0

2.THE SUPERINTENDENT ENGINEER, IRRIGATION (DRAINS)
DEPARTMENT, DR.B.R. AMBEDKAR KONASEEMA DISTRICT,
DOWLAI SWARAM.

3.THE EXECUTIVE ENGINEER, IRRIGATION (DRAINS) DEPARTMENT,
DR.B.R.AMBEDKAR KONASEEMA DISTRICT. AMALAPURAM,

4.THE ASSISTANT EXECUTIVE ENGINEER, IRRIGATION
DEPARTMENT - DRAINAGE SECTION - IV, AMALAPURAM,
DR.B.R.AMBEDKAR KONASEEMA DISTRICT.

5.THE DEPUTY EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT -
DRAINAGE SECTION, AMALAPURAM, DR.B.R.AMBEDKAR
KONASEEMA DISTRICT.

...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 an appropriate Writ or order or direction, more particularly one in the nature of WRIT OF MANDAMUS or any other writ/s declaring the action of the 5th respondents in issuing the impugned notice dated 27/02/2026 directing removal of the petitioner's constructions ac. 0.02 cts (97 Sq. Yards) situated in R.S.No. 118 of Mogallamuru Village, Allavaram Mandal, Dr. B.R. Ambedkar Konaseema District as illegal, arbitrary, without jurisdiction and violative of principles of natural justice, and consequently set aside the impugned notice dated 27/02/2026 by directing the respondents not to interfere with peaceful possession and enjoyment of the petitioners property admeasuring an extent of ac. 0.02 cts (97 Sq. Yards) situated in R.S.No. 118 of Mogallamuru Village, Allavaram Mandal, Dr. B.R. Ambedkar Konaseema District without following the procedure contemplated and pass

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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 direct the respondents herein not to interfere with peaceful possession and enjoyment of the property of petitioner admeasuring ac. 0.02 cts (97 Sq. Yards) situated in R.S.No.118 of Mogallamuru Village, Allavaram Mandal, Dr. B.R. Ambedkar Konaseema District in any manner by suspending the further action pursuant to the impugned notice dated 27/02/2026 and pass

Counsel for the Petitioner:

1.PONNADA SREE VYAS

Counsel for the Respondent(S):

1.GP FOR IRRI AND CAD

The Court made the following order:

Questioning the notice dated 27.02.2026 issued by respondent No.4, whereby the petitioner was directed to remove constructions in the property admeasuring Ac.0.02 cents (97 sq yards) situated in Rs.No.118 of Mogallamuru Village, Allavaram Mandal, Dr.B.R.Ambedkar Konaseema District, the present Writ Petition is filed.

2. Heard Sri Amirisetty Sai Raghava, learned counsel, representing Sri Ponnada Sree Vyas, learned counsel for the petitioner and learned Assistant Government Pleader for Irrigation Department.

3. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit, contended that the petitioner is peaceful possession and enjoyment of the subject property. In the said property, there exists a small residential house and a petty shop, from which the petitioner has been eking out his livelihood. He further submitted that through there is no registered sale deed in favour of the petitioner, he has been in continuous possession and enjoyment of the said property for several years, which is evident from the electricity service connection provided to the premises and the electricity bills issued from time to time, which stand in the name of the petitioner. He further submitted that respondent No.4 issued a notice dated 27.02.2026 directing the petitioner to remove the constructions, alleging that it is causing obstruction to the flow of water, within seven days from the date of receipt of the notice, failing which the authorities would remove the same in accordance with law.

He further submitted that the said notice does not contain complete details of the property nor the boundaries of the alleged encroached land and therefore the same is vague and unsustainable under law. The action of the respondents in issuing the impugned notice without issuing any prior show cause notice and without giving an opportunity of being heard is violative of the principles of natural justice. He further submitted that if such notice subsists, the petitioner will suffer irreparable loss and hardship and will be deprived of his shelter and livelihood. Hence, prayed to pass appropriate orders protecting the interest of the petitioner.

4. On the other hand, learned standing counsel for Irrigation Department seeks time to get instructions in the matter and submits that if this Court is inclined to set aside the notice, liberty may be granted to the respondents to take appropriate action in accordance with law.

5. Perused the impugned notice dated 27.02.2026 and considered the submissions made by learned counsel for the parties.

6. It is the contention of the petitioner that without following the due process of law, without issuing any prior show cause notice and without giving an opportunity of being heard, respondent No.4 issued the impugned notice directing the petitioner to remove the constructions in the subject property.

7. The impugned Notice dated 27.02.2026, though it is styled as a notice, virtually a direction was given to the petitioner to remove the constructions within seven days. In the said notice, respondent No.4 has not mentioned the

details of the property or the boundaries of the alleged encroached land. The said notice does not speak anything about prior issuance of any show cause notice to the petitioner seeking explanation. Issuing the impugned notice containing such a direction, without issuing any prior show cause notice or affording an opportunity of personal hearing to the petitioner, is unsustainable under law.

8. The first and foremost principle of natural justice is what is commonly known as '*audi alteram partem*' rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play.

9. Taking the submissions of learned counsel for the parties into consideration, this Court finds that the impugned notice is *ex-facie* illegal and unsustainable, having been issued in clear violation of the principles of natural justice and the same is liable to be set aside without inviting counter. Hence, this Court is inclined to allow this Writ Petition, at the admission stage itself, by passing the following order.

10. Accordingly, the Writ Petition is disposed of, setting aside the Notice dated 27.02.2026 issued by respondent No.4. However, this order shall not preclude the respondent authorities concerned from initiating appropriate action against the petitioner in accordance with law, after following due process by issuing show cause notice and affording the petitioner an opportunity of being heard, if so advised. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending, if any in the Writ Petition, shall also stand closed.

JUSTICE RAVI CHEEMALAPATI

01.04.2026

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THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

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