

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE TWENTY THIRD DAY OF JUNE TWO THOUSAND AND TWENTY

:PRESENT:

THE HONOURABLE THE CHIEF JUSTICE JITENDRA KUMAR MAHESHWARI
AND
THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

PUBLIC INTEREST LITIGATION NO: 186 OF 2019



Between:

Barre Konda Babu, S/o Late Venkata Swamy, Aged about 54 years, Social Worker, R/o.D.No.67-4-6/1, Near Community Hall, Subba Rao Nagar, Rajamahendravaram, East Godavari District.

.....Petitioner

AND

1. The State of Andhra Pradesh, Represented by its Principal Secretary (Revenue) Secretariat, Velagapudi, Guntur District.
2. The District Collector, East Godavari District at Kakinada.
3. The Sub-Collector, Rajamahendravaram Division, Rajamahendravaram, East Godavari District.
4. The Tahsildar, Rajamahendravaram Rural Mandal, Rajamahendravaram, East Godavari District.
5. The District Panchayat Officer, East Godavari District at Kakinada.
6. The Panchayat Secretary, Grade-I, Gram Panchayat, Kolamuru, Rajamahendravaram Rural, East Godavari District.
7. Godavari Urban Development Authority, Represented by its Chairman, Kakinada, East Godavari District.
8. Axene Evangelical Mission, Represented by its Chairman-K.Prabhakara Rao, Mercy Colony, Konthamuru, Rajamahendravaram, East Godavari 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 a writ, order or direction more particularly one in the nature of writ of mandamus by declaring the action of the Respondents 1 to 7 herein in not taking action against the illegal/unthorised constructions of the 8th Respondent herein in the Government land admeasuring Ac.11.68 cents covered under Survey No.367 situated at Kolamuru Panchayat, Rajamahendravaram Rural, East Godavari District as arbitrary, autocratic, illegal, ultravires and against to the principles of natural justice and consequently direct the Respondents 1 to 7 herein to evict the 8th Respondent herein by demolishing his illegal/ unauthorised constructions in the Government land admeasuring Ac.11.68 cents covered under Survey No.367 situated at Kolamuru Panchayat, Rajamahendravaram Rural, East Godavari District in the interests of justice.

IA NO: 1 OF 2019

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 pass an interim Order by way of interim Direction by directing Respondents 1 to 7 herein to stop the illegal/ unauthorised constructions of the 8th Respondent herein in Government land admeasuring Ac.11.68 cents covered under Survey No.367 situated at Kolamuru Panchayat, Rajamahendravaram Rural, East Godavari District, pending disposal of W.P.(PIL) 186 of 2019, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court orders dated 27-12-2019, 21.01.2020 & 11.02.2020 made herein and upon hearing the arguments of Sri Chandra Sekhar Ilapakurthi Advocate for the Petitioner, GP for Revenue for the Respondent Nos.1 to 4, GP for Panchayat Raj for Respondent No.5 and of Sri I. Koti Reddy, Standing Counsel for Respondent No.6, Sri Ch.Samson Babu accepts notice on behalf of respondent No.8, the Court made the following:

ORDER:

“Learned Government Pleader for Revenue appears on behalf of respondent Nos.1 to 4.

Learned Government Pleader for Panchayat Raj and Rural Development appears on behalf of respondent No.5.

A counter-affidavit has been filed by respondent No.4 –Tahsildar on his behalf and on behalf of respondent Nos. 1 to 3.

A memo has been filed on behalf of respondent No.5 adopting the counter-affidavit filed by respondent No.4.

Separate counter-affidavits have been filed by respondent Nos.6 and 7.

It is very unfortunate that whenever Officers of various Departments of the State Government, including the Principal Secretary of the Department representing the State, are joined as parties to the writ petitions, counter-affidavits on behalf of the Officer of lowest rank are coming on record. Under Article 226 of the Constitution of India, a *writ* can be issued against the State Government and its instrumentalities. However, in such a situation, what is the stand of the State Government must come on record, but not the stand of the Officer of lowest rank of the State Government. It is also experienced in several cases that whenever number of Officers of various Departments of the State Government are joined as parties to the writ petitions, separate counter-affidavits on behalf of such Officers are coming on record. Filing of separate counter-affidavits by the different Officers of the State Government along with the documents results in (i) repetition of facts; (ii) makes the file bulky without any substance; (iii) wastage of time of the learned Government Pleaders as well as the Court; and (iv) wastage of paper, and amounting to national wastage, to papers. Such filing of separate counter-affidavits also creates confusion.

The said fact has already been brought to the notice of the learned Advocate General, learned Additional Advocate General as well as learned Government Advocates representing different Departments on earlier occasions, but steps are still awaited. In the opinion of this Court, such a practice is wholly undesirable and should be discontinued. Whenever the State Government is joined as a party to a writ petition though through several Departments and the Authorities, one consolidated counter-affidavit of the State Government must come on record, through the Officer in-charge of the case, appointed by the Government, filing of their separate counter-affidavits must be stopped.

In view of the aforesaid, at first instance, we direct the Law Secretary of the State to place this matter before the Chief Secretary of the State informing that as and when a writ petition is filed joining various Departments, including the State Government, as parties thereto, one consolidated counter-affidavit of the State Government must be filed. The requisite guidelines must be prepared by the Government taking a decision in this regard within two weeks from today, and the decision taken be communicated to the Registry of this Court, immediately.

List this case before this Court for further orders after two weeks.

Let a copy of this order be sent immediately by the Registrar (Judicial) to the Law Secretary of the State for doing the needful."

//TRUE COPY//

Sd/- B. NARSINGA RAO,
ASSISTANT REGISTRAR

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary (Revenue), State of Andhra Pradesh, Secretariat, Velagapudi, Guntur District.
2. The District Collector, East Godavari District at Kakinada.
3. The Sub-Collector, Rajamahendravaram Division, Rajamahendravaram, East Godavari District.
4. The Tahsildar, Rajamahendravaram Rural Mandal, Rajamahendravaram, East Godavari District.
5. The District Panchayat Officer, East Godavari District at Kakinada.
6. The Panchayat Secretary, Grade-I, Gram Panchayat, Kolamuru, Rajamahendravaram Rural, East Godavari District.
7. The Chairman, Godavari Urban Development Authority, Kakinada, East Godavari District.
8. K.Prabhakara Rao, Chairman, Axx Medical Mission, Mercy Colony, Konthamuru, Rajamahendravaram, East Godavari District. (1 to 8 by RPAD)

9. **The Registrar (Judicial), High Court of A.P., Amaravati, Guntur District.**
10. **The Law Secretary, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravati, Guntur District.**
11. One CC to SRI.CHANDRA SEKHAR ILAPAKURTI Advocate [OPUC]
12. One CC to SRI.CH.SAMSON BABU Advocate [OPUC]
13. One CC to SRI.I.Koti Reddy Advocate [OPUC]
14. Two CCs to GP FOR REVENUE, High Court Of Andhra Pradesh. [OUT]
15. Two CCs to GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT, High Court Of Andhra Pradesh. [OUT]
16. One spare copy

SRL

HIGH COURT

HCJ & LKJ

DATED:23.06.2020

NOTE: LIST THIS CASE BEFORE THIS COURT FOR FURTHER ORDERS AFTER TWO WEEKS

ORDER

WP(PIL).No.186 of 2019

DIRECTION

