

2/162030/18

File No.913508/WRG-GRC/2017

**By e-mail
COURT MATTER
MOST IMMEDIATE**

GOVERNMENT OF ANDHRA PRADESH
WATER RESOURCES (WRG-GRC) DEPARTMENT

R.M
12/1/2018

Memo.No.913508/WRG-GRC/2017 Dated 03/01/2018

Sub: High Court - WP. No.33547/2017 filed by Sri
Penmetsa Satyanarayana Raju and Other, W.G
District - Take necessary action - Reg.

Ref : From the Hon'ble High Court, A.P., Order
dt.23.10.2017 in WP No.33547/2017.

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A copy of the reference cited is herewith forwarded to
the Engineer-in-Chief (Irrigation), Water Resources Department,
A.P., Vijayawada and he is requested to take necessary action
on the orders dated:23.10.2017 in WP. No.33547/2017 of the
Hon'ble High Court, immediately.

**KOTESWARAMMA S.
JOINT SECRETARY TO GOVT**

To

The Engineer-in-Chief (Irrigation), Water Resource Dept., A.P.,
Vijayawada (w.e.).

Copy to:

The District Collector, West Godavari District, Eluru (w.e.) (with
a similar request).

The Deputy Executive Engineer, Drainage Sub Division,
Bhimavaram, W.G District (w.e.) (with a similar request).

// FORWARDED :: BY ORDER //

P. Balachowdary
SECTION OFFICER

NO. 11 DT 18/1/18
COPY TO THE AEE, BVRM FOR INFORMATION
AND APPROVAL.

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PBD
12/1/2018*

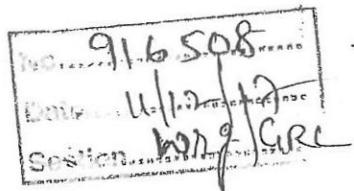
Signature valid

Digitally signed by
KOTESWARAMMA SIKHA
Date: 2018.01.03 14:08:48 IST
Reason: Approved

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF OCTOBER
TWO THOUSAND AND SEVENTEEN

PRESENT



THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION NO: 33547 OF 2017

Between:

- 1 Penmetsa Satyanarayana Raju, S/o. Subba Raju, aged 54 years,
- 2 Penmetsa Yagna Sri Venkata Subrahmanya Varma,
S/o. Penmetsa Satyanarayana Raju aged 24 years

Both are R/o.1-10-5, 2nd Street, Adharshnagar, Bhimavaram, West
Godavari District

.....PETITIONERS

AND

- 1 State of Andhra Pradesh,
Rep by its Principal Secretary, Minor, Medium & Major Irrigation Department,
Building No.4, Ground floor, Room.No.216, A.P. Secretariat, Velagapudi,
Krishna District.
- 2 The Deputy Executive Engineer, Drainage Sub Division, Bhimavaram, West
Godavari District.
- 3 The District Collector, West Godavari District, Eluru.
- 4 The Mandal Revenue Officer, Palakoderu mandal, Palakoderu, West
Godavari District.
- 5 P. Veera Venkata Satyanarayana Raju, S/o. Satyanarayana Raju, R/o.
Narasayya Agraharam, Bhimavaram, West Godavari District.

RR 3 & 4 AND 5 are impleaded as per C.O. dt.23.10.2017 in
WPMP.NOs.42330 of 2017 and 43031 of 2017 respectively.

.....RESPONDENTS

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 a Writ of Mandamus or any other appropriate Writ or Writs,
Order or Direction, declaring proceedings for demolition and eviction issued by
the 2nd Respondent in No.153M, dt.27-09-2019, received on 29-09-2017 under
Land Encroachment Act, 1905 as illegal, arbitrary, without jurisdiction and
 violative of Art. 14 & 300-A of Constitution of India and ultra vires Sec. 6 of Land
Encroachment Act 1905, Award costs.

WPMP NO. 41730 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings issued by the 2nd Respondent order in the form of notice No.153M, dt.27-09-2019, pending disposal of W.P.No. /2017 and pass appropriate orders thereon.

Counsel for the Petitioner: SRI S.S. REDDY

Counsel for Respondent Nos.1 & 2: GP FOR IRRIGATION & C.A.D. (AP)

Counsel for Respondent Nos.3 & 4: GP FOR REVENUE (AP)

Counsel for Respondent No.5: SRI CH. DHANAMJAYA

The Court made the following: ORDER

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.33547 OF 2017

ORDER

Heard learned counsel appearing for the petitioner, learned Government Pleader for Irrigation and learned counsel appearing for the 5th respondent.

It is the case of the petitioner that his daughter gifted an extent of Ac.3.75 cents in Sy.No.369 to her brother, who is the 2nd petitioner, through a registered settlement deed dated 18.6.2014. The 2nd petitioner already owns another extent of Ac.3-75 cents of land in the same Sy.No.369. Hence, the 2nd respondent became the owner of total extent of Ac.7-50 cents. When the 2nd respondent passed an order on 27.09.2017 under Section 6 of the Land Encroachment Act, 1905 (for short 'the Act'), asking the 1st petitioner to remove the encroachment over an extent of Ac.0-50 cents of land in Sy.No.370, which was shown as drainage poramboke, and is adjoining the land of the 2nd petitioner situated in Sy.No.369, the present writ petition is filed.

Learned counsel appearing for the petitioners submits that the 2nd respondent has no jurisdiction to issue the impugned notice under Section 6 of the Act and in any event the impugned

notice should be preceded by a notice under Section 7 of the Act.

He further submits that drain which is flowing, is common drainage for the village and the 2nd petitioner has not encroached the land as alleged.

The 2nd respondent lacks jurisdiction, which is admitted by the learned Government Pleader as well as by the 5th respondent.

In the circumstances, since the impugned notice was issued by an authority, who is not competent to issue the same, the impugned notice dated 27.09.2017 is set aside and the writ petition is allowed accordingly. However, this order will not prevent the competent authority to take action in accordance with law. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

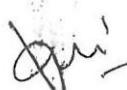
SD/-N. PURUSHOTHAM REDDY
ASSISTANT REGISTRAR
//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Minor, Medium & Major Irrigation Department, State of Andhra Pradesh, Building No.4, Ground floor, Room.No.216, A.P. Secretariat, Velagapudi, Krishna District.
2. The Deputy Executive Engineer, Drainage Sub Division, Bhimavaram, West Godavari District.
3. The District Collector, West Godavari District, Eluru.
4. The Māhdal Revenue Officer, Palakoderu mandal, Palakoderu, West Godavari District.
5. Two CCs to the GP for Revenue (AP), High Court of Judicature at Hyderabad (OUT)
6. Two CCs to the GP for Irrigation & C.A.D. (AP), High Court of Judicature at Hyderabad (OUT)
7. One cc to Sri. S.S. Reddy, Advocate (OPUC)
8. One cc to Sri. Ch. Dhananjaya, Advocate (OPUC)
9. Two CD Copies

GLM



HIGH COURT

ARLR,J

23
DATED: 02/10/2017

ORDER

WP.No.33547 of 2017

OPC 2/10
wp/65 Dist Col
OPR

ALLOWING THE WP
WITHOUT COSTS.

ssv
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