

IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

WRIT PETITION No.3506 OF 2026

Between:-

K. Sreenivasulu

... Petitioner

AND

The State of A.P., Rep. by Prl. Secretary,
Municipal Administration Department and another.

... Respondents

DATE OF ORDER PRONOUNCED: 09.04.2026

HON'BLE Mr. JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

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

GANNAMANENI RAMAKRISHNA PRASAD,J

***HON'BLE Mr. JUSTICE GANNAMANENI RAMAKRISHNA PRASAD**

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! Counsel for the petitioner

: Sri Vigneswara Reddy, Ld. Counsel
appearing on behalf of Sri V.R. Reddy
Kovvuri.

^Counsel for respondents

: Sri P. Vengala Reddy, Ld. Standing
Counsel for the Municipal Corporations.

< Gist:

➤ Head Note:

?CASES REFERRED:

1. (1985) 3 SCC 545
2. (1997) 11 SCC 121

Judgment reserved on	23.02.2026
Judgment pronounced on	09.04.2026
Judgment uploaded on	15.04.2026

APHC010061802026

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

THURSDAY, THE NINTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD**

WRIT PETITION NO: 3506 OF 2026

Between:

1.K. SREENIVASULU,, S/O. LATE SUBBARAMAIAH AGED ABOUT 56
YEARS, OCC BUSINESS, RIO. D.NO.36-4, CHINNACHOWK,
KADAPA, Y.S.R. KADAPA DISTRICT.

...PETITIONER**AND**

1.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, MUNICIPAL ADMINISTRATION AND URBAN
DEVELOPMENT DEPARTMENT, SECRETARIAT BUILDINGS,
VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.

2.THE KADAPA MUNICIPAL CORPORATION, KADAPA Y.S.R
DISTRICT. REP BY ITS COMMISSIONER.

...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 topleased to issue an appropriate Writ, Order or direction more particularly one in nature of Writ of Mandamus declaring the action of respondent No.2 in trying to demolish the shops bearing D. No.41 /1587 and D. No.41 /1588 in an extent of Ac.0.02cents in Sy.No.64/1 of Sankarapuram

Revenue Ward No.41, Chinnachowk, Kadapa Mandal, Y.S.R Kadapa District without initiating the proceedings for acquisition of the same as arbitrary, illegal, colorable exercise of power and contrary to the provisions Sections 146 and 147 of the Greater Hyderabad Municipal Corporation Act, 1955 and the well established principles apart from being violative of the fundamental and Constitutional rights guaranteed to me under Articles 14, 19, 21 and 300-A of the Constitution of India and consequently direct the respondent No.2 not to lay/widen the road by demolishing the shops bearing D.No.41/1587 and D.No.41/1588 in an extent of Ac.0.02cents in Sy.No.64/1 of Sankarapuram Revenue Ward No.41, Chinnachwok, Kadapa Mandal, Y.S.R Kadapa District without initiating the proceedings under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and also without payment of compensation to which I am entitled

IA NO: 1 OF 2026

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 respondent No.2 not to demolish the shops in D.No.41/1587 and D.No.41/1588 in an extent of Ac.0.02cents in Sy.No.64/1 of Sankarapuram Revenue Ward No.41, Chinnachwok, Kadapa Mandal, Y.S.R Kadapa District, without adhering to due process of law, pending disposal of the above Writ Petition

Counsel for the Petitioner:

1.V R REDDY KOVVURI

Counsel for the Respondent(S):

- 1.POTHAM VENGALA REDDY SC For M.Corporation in Rayalaseema region In
- 2.GP MUNICIPAL ADMN AND URBAN DEV AP

The Court made the following ORDER:

Heard Sri Vigneswara Reddy, Ld. Counsel appearing on behalf of Sri V.R.Reddy Kovvuri, Ld. Counsel for the Writ Petitioner and Sri P.Vengala Reddy, Ld. Standing Counsel for the Municipal Corporations.

2. The prayer sought in the present Writ Petition is as under:

“It is, therefore, prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in nature of Writ of Mandamus declaring the action of respondent No.2 in trying to demolish the shops bearing D. No.41/1587 and D.No.41/1588 in an extent of Ac.0.02 cents in Sy.No.64/1 of Sankarapuram Revenue Ward No.41, Chinnachowk, Kadapa Mandal, Y.S.R Kadapa District without initiating the proceedings for acquisition of the same as arbitrary, illegal, colorable exercise of power and contrary to the provisions Sections 146 and 147 of the Greater Hyderabad Municipal Corporation Act, 1955 and the well established principles apart from being violative of the fundamental and Constitutional rights guaranteed to me under Articles 14, 19, 21 and 300- A of the Constitution of India and consequently direct the respondent No.2 not to lay/widen the road by demolishing the shops bearing D.No.41/1587 and D.No.41/1588 in an extent of Ac.0.02 cents in Sy.No.64/1 of Sankarapuram Revenue Ward No.41, Chinnachwok, Kadapa Mandal, Y.S.R Kadapa District without initiating the proceedings under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and also without payment of compensation to which I am entitled to and pass such other order or orders as are deemed fit and proper in the circumstances of the case.”

3. When this Writ Petition was listed for admission on 06.02.2026, this Court, having prima facie noted that Section 405 of the Andhra Pradesh Municipal Corporations Act, 1955 may not come to the aid of the Corporation to remove or demolish any structure without issuing any notice and without following the Principles of Natural Justice, had granted an Interim Order of

Status quo in favour of the Writ Petitioner and posted the matter for consideration.

4. Sri P. Vengala Reddy, Ld. Standing Counsel for the Municipal Corporations has submitted the Written Instructions.

FACTS:

5. The facts in this case would fall in a narrow compass inasmuch as the facts, briefly stated, by the Writ Petitioner are as under:

(i) That the land in an extent of Ac.0.02 cents, along with certain other extents, was purchased by the father of the Writ Petitioner herein under Registered Sale Deed bearing document No.702 of 1967 registered on 13.03.1967 (Ex.P.1); that the father of the Writ Petitioner had constructed shops, for which, the Respondent Corporation has assigned two door numbers bearing D.No.41/1587 and D.No.41/1588; that the Writ Petitioner had obtained electricity connection and had been paying property tax and electricity bills (Ex.P.2 and Ex.P.3); and that the area in which shops were situated had eventually become busy and the Official Respondents have decided to widen the road.

(ii) It is further submitted by the Ld. Counsel for the Writ Petitioner that the Respondents have intended to demolish the subject shops without initiation of any lawful proceedings for acquisition while the Petitioner is entitled for compensation in the event that the said requirements to acquire property is for public purpose.

SUBMISSIONS OF THE CORPORATION:

6. Sri P. Vengal Reddy, Ld. Standing Counsel for the Municipal Corporations has placed reliance on Section 405 of the Andhra Pradesh Municipal Corporations Act, 1955 (herein after referred to as the Act, 1955). He would submit that the Corporation is not statutorily obligated to adhere to

the Principles of Natural Justice when it invokes its power under Section 405 of the Act, 1955 for the purpose of clearing of encroachments which are blocking the roads or when it comes to the demolition of private properties for the purpose of expansion/widening of the existing road. He had submitted the Written Instructions furnished by the Commissioner, Kadapa Municipal Corporation dated 05.02.2026. Relevant portion is usefully extracted hereunder:

“It is further submitted that the approved Draft Road Development Plan was duly published vide Roc No: 02/KMC/G1/2026, dated 21-01-2026, in the Andhra Jyothi and The Hindu newspapers on 24-01-2026, calling for objections, if any, from the general public. It is submitted that, during the process of Implementation of the said RDP, this Respondent office has identified road encroachments by verifying the Field Measurement Book (FMB) and other relevant municipal and revenue records.

further It is submitted that the petitioner was found to have unauthorisedly occupied a portion of the road area, which falls within the limits of the proposed road widening, thereby causing obstruction to the public road. Accordingly, this Respondent office orally instructed the petitioner to remove and clear the said encroachments from the road area.

further It is submitted that the said oral instructions were issued in exercise of the powers conferred under Section 405 of the Andhra Pradesh Municipalities Act, which empowers the Commissioner to remove unauthorised constructions encroachments without issuance of notice, where such constructions cause obstruction to any public road.

further is to submit the action of this Respondent office In Instructing the petitioner to remove the encroachments is legal, valid, and in accordance with the statutory provisions, approved Master Plan, and public interest.”

(Emphasis supplied)

ANALYSIS:

7. For this purpose, Section 405 of the Andhra Pradesh Municipal Corporations Act, 1955 is usefully extracted hereunder:

“405. Commissioner may without notice, remove anything erected, deposited or hawked or exposed for sale in contravention of Act:-

The Commissioner may, without notice, cause to be removed-

(a) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature, or any fixture which shall be erected or set up in or over any street, any open channel, drain, well or tank contrary to the provisions of this Act;

(b) any stall, chair, bench, box, ladder, board or shelf, or any other thing whatever placed, deposited, projected, or suspended, in, upon, from or to any place in contravention of this Act;

(c) any article whatsoever hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act and any vehicle, package, box or any other thing in or on which such article is placed.”

8. In order to understand the purport of Section 405 of the Act, 1955, this Court deems it appropriate to discuss about Section 314 of the Bombay Municipal Corporation Act, 1888 (hereinafter referred to as the Act, 1888). Section 314 of the Act, 1888 is usefully extracted hereunder:

“314. Power to remove without notice anything erected, deposited or hawked in contravention of Section 312, 313 or 313-A.—The Commissioner may, without notice, cause to be removed —

(a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected or set up in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of Section 312, after the same comes into force in the city or in the suburbs, after the date of the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950 or in the extended suburbs after the date of the coming into force of the Bombay Municipal Further Extension of Limits and Schedule BBA (Amendment) Act, 1956;

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached, or suspended in, upon, from or to any place in contravention of sub-section (1) of Section 313;

(c) any article whatsoever hawked or exposed for sale in any public place or in any public street in contravention of the provisions of Section 313-A and any vehicle, package,

box, board, shelf or any other thing in or on which such article is placed or kept for the purpose of sale.”

By Section 3(w), “street” includes a causeway, footway, passage etc., over which the public have a right of passage or access.”

9. Section 405 of the Act, 1955 is almost in *pari meteria* with Section 314 of the Act, 1888 except two minor differences which have no bearing on this case. The Hon’ble Supreme Court, while considering Section 314 of the Act, 1888 in Para Nos. 44 and 48 in the case of ***Olga Tellis v. Bombay Municipal Corpn.***, : (1985) 3 SCC 545 as extracted hereunder:

“44. The challenge of the petitioners to the validity of the relevant provisions of the Bombay Municipal Corporation Act is directed principally at the procedure prescribed by Section 314 of that Act, which provides by clause (a) that the Commissioner may, without notice, take steps for the removal of encroachments in or upon any street, channel, drains, etc. By reason of Section 3(w), “street” includes a causeway, footway or passage. In order to decide whether the procedure prescribed by Section 314 is fair and reasonable, we must first determine the true meaning of that section because, the meaning of the law determines its legality. If a law is found to direct the doing of an act which is forbidden by the Constitution or to compel, in the performance of an act, the adoption of a procedure which is impermissible under the Constitution, it would have to be struck down. Considered in its proper perspective, Section 314 is in the nature of an enabling provision and not of a compulsive character. It enables the Commissioner, in appropriate cases, to dispense with previous notice to persons who are likely to be affected by the proposed action. It does not require and, cannot be read to mean that, in total disregard of the relevant circumstances pertaining to a given situation, the Commissioner must cause the removal of an encroachment without issuing previous notice. The primary rule of construction is that the language of the law must receive its plain and natural meaning. What Section 314 provides is that the Commissioner may, without notice, cause an encroachment to be removed. It does not command that the Commissioner shall, without notice, cause an encroachment to be removed. Putting it differently, Section 314 confers on the Commissioner the

discretion to cause an encroachment to be removed with or without notice. That discretion has to be exercised in a reasonable manner so as to comply with the constitutional mandate that the procedure accompanying the performance of a public act must be fair and reasonable. We must lean in favour of this interpretation because it helps sustain the validity of the law. Reading Section 314 as containing a command not to issue notice before the removal of an encroachment will make the law invalid.

45. It must further be presumed that, while vesting in the Commissioner the power to act without notice, the legislature intended that the power should be exercised sparingly and in cases of urgency which brook no delay. In all other cases, no departure from the audi alteram partem rule ("Hear the other side") could be presumed to have been intended. Section 314 is so designed as to exclude the principles of natural justice by way of exception and not as a general rule. There are situations which demand the exclusion of the rules of natural justice by reason of diverse factors like time, place, the apprehended danger and so on. The ordinary rule which regulates all procedure is that persons who are likely to be affected by the proposed action must be afforded an opportunity of being heard as to why that action should not be taken. The hearing may be given individually or collectively, depending upon the facts of each situation. A departure from this fundamental rule of natural justice may be presumed to have been intended by the legislature only in circumstances which warrant it. Such circumstances must be shown to exist, when so required, the burden being upon those who affirm their existence.

(Emphasis supplied)

10. The above extract would clearly indicate that the power of removal of encroachments without notice can be exercised only during exceptional and compelling occasions, whereas, as a general rule, the Authorities are required to adhere to the Principles of Natural Justice by issuing advance notice. The time that can be given for evicting the persons or structures which are treated by the Officials as illegal encroachments is also dealt with by the Hon'ble Apex Court In ***Ahmedabad Municipal Corpn. v. Nawab Khan Gulab Khan*** :

(1997) 11 SCC 121, the Hon'ble Apex Court held in Para Nos.8 & 10 as under:

*"8. It is for the court to decide in exercise of its constitutional power of judicial review whether the deprivation of life or personal liberty in a given case is by procedure which is reasonable, fair and just or it is otherwise. **Footpath, street or pavement are public property which are intended to serve the convenience of the general public. They are not laid for private use and indeed, their use for a private purpose frustrates the very object for which they are carved out from portions of public roads. The main reason for laying out pavements is to ensure that the pedestrians are able to go about their daily affairs with a reasonable measure of safety and security. That facility, which has matured into a right of the pedestrians, cannot be set at naught by allowing encroachments to be made on the pavements. The claim of the pavement-dwellers to construct huts on the pavement or road is a permanent obstruction to free passage of traffic and pedestrians' safety and security. Therefore, it would be impermissible to permit or to make use of the pavement for private purpose. They should allow passing and repassing by the pedestrians. No one has a right to make use of a public property for their private purpose without the requisite authorisation from the competent authority.** It would, therefore, be but the duty of the competent authority to remove encroachments on the pavement or footpath of the public street obstructing free flow of traffic or passing or repassing by the pedestrians.*

*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.”

(emphasis supplied)

11. Therefore, while the Corporation is exercising its power to clear the illegal encroachments under Section 405 of the Act, 1955, only in cases of urgency which brook no delay, or in cases where the encroachments are of recent origin or if the encroacher attempts to re-occupy the public space, the requirement of following Principles of Natural Justice can be dispensed with; and that, in all such cases, ‘departure’ from the Principle of “*Audi Alteram Partem*” rule is presumed to have been intended by the legislature. Therefore, Section 405 is so designed as to exclude the Principles of Natural Justice ‘by way of exception’ and ‘not as a general rule’.

12. From the extracts of the two judgments mentioned above, the following principles can be deduced for the purpose of dealing with the case on hand:

(i) *That adhering to the Principles of Natural Justice is not a “rule of thumb” and it is not inflexible and rigid;*

(ii) *Exclusion of the Principles of Natural Justice shall be by way of exception, but not as a general rule;*

(iii) *Each case depends upon its own back drop;*

(iv) *Removal of encroachment needs urgent action;*

(v) *Longer delay in removal of encroachment is visited with the danger of permitting the encroachers in claiming semblance of possessory right for obstruction and removal of the encroachment;*

(vi) *If the encroachment is of a recent origin where a swift and timely action is required, the need to follow the Principles of Natural Justice could be dispensed with, inasmuch as no one has a right to encroach 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 highhanded and unauthorized acts of encroachment and unlawful squatting;*

(vii) *If the illegal settlements or encroachments are allowed to remain untouched for a long time for the reasons best known to the Authorities, necessarily a modicum of reasonable notice for removal, say two weeks or 10 days be given to the encroachers by way of personal service or substituted service by fixing the notice on the property etc.,;*

(viii) *Despite receipt of notice, if the encroacher does not vacate and puts up resistance, necessarily appropriate and reasonable force can be used to have the encroachment removed;*

(ix) *For evicting lawful owners, for any public purpose, the Corporation shall follow the mandatory procedure prescribed under the relevant statute and power under Section 405 of the Act, 1955 shall not be exercised by the Corporation;*

(x) *Semblance of a possessory right accrues on occupiers or encroachers when the Civic Bodies begin to raise revenue under various heads and collect from them (eg: Trade Licence). But payment of such levies shall not confer any right on the occupiers or encroachers. Therefore, the Civic Bodies would be entitled to follow the procedure as laid down by the Hon'ble Apex Court in Para No.10 in the case of **Ahmedabad Municipal Corpn. v. Nawab Khan Gulab Khan** (referred supra) for evicting them; and*

(xi) *When Civic Bodies initiate steps for evicting the illegal occupiers/encroachers, the law laid down by the Hon'ble Supreme Court mandates that all the related Departments and other authorities shall work in tandem by way of mutual cooperation and coordination until the desired purpose is achieved. (in **Municipal Corpn., Faridabad v. Khorī Gaon Residents Welfare Assn. : (2022) 18 SCC 562**, the Hon'ble Apex Court held as : “ In the event, the Corporation initiates such action, we have no manner of*

doubt that all the State authorities will make a coordinated effort including by providing necessary/adequate security to ensure that the encroachments and unauthorised structure(s)/occupant(s) on the forest land are removed.”).

13. In the facts and circumstances of this case, it, prima facie, appears that the Writ Petitioner in the present case has been in long standing possession of the two shops bearing D.No.41/1587 and D.No.41/1588 and that the Writ Petitioner is claiming not only a semblance of a possessory right but a right of ownership on the strength of the registered document. Under these circumstances, it would be incumbent upon the Respondent Authorities not only to issue notice but also to provide a reasonable hearing before passing a Speaking Order in accordance with law.

14. In the above premise, this Court deems it appropriate to allow this Writ Petition with a direction to the Respondent Authorities to follow the Principles of Natural Justice and also fair hearing in view of the alleged long standing possession and also the reliance placed by the Writ Petitioner on the registered document. After the enquiry is completed, the Respondent Authorities shall not only pass a Speaking Order in accordance with law, but shall also communicate the same to the Writ Petitioner forthwith. It is clarified that this Court has not expressed any opinion on the merits of the case and Respondents shall proceed in accordance with law.

15. With these observations and directions, this Writ Petition stands allowed to the extent indicated hereinabove. No order as to costs.

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

GANNAMANENI RAMAKRISHNA PRASAD, J

Dt: 09.04.2026

Note: LR copy to be marked.

B/o. Mnr/JKS



HON'BLE SRI JUSTICE GANNAMANENI RAMAKRISHNA PRASAD

WRIT PETITION No.3506 OF 2026

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