

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

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**WRIT PETITION NO: 24152 of 2025**

SANKULA NAGARJUNA,, S/O. PEDDA TIRUPALU, AGED ABOUT 42 YEARS, OCC- LABOUR, R/O- 19-91-2/B, BUDAGA JANGALA COLONY, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH AND OTHERS.

... Petitioners

**Versus**

THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF IRRIGATION, SECRETARIAT, VELAGAPUDI, AMARAVATHI, ANDHRA PRADESH AND OTHERS

... Respondents

DATE OF ORDER PRONOUNCED : 21.01.2026

SUBMITTED FOR APPROVAL:

**HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

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

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**SUBBA REDDY SATTI, J**

**\* HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

**WRIT PETITION NO: 24152 OF 2025**

**% 21.01.2026**

**Writ Petition No. 24152 of 2025**

SANKULA NAGARJUNA,, S/O. PEDDA TIRUPALU, AGED ABOUT 42 YEARS, OCC- LABOUR, R/O- 19-91-2/B, BUDAGA JANGALA COLONY, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH AND OTHERS.

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... Respondents

**! Counsel for Petitioner** : Sri N.Subba Rao, learned Senior Counsel assisted by Sri Subramanyam Daraboina, learned counsel

**^ Counsel for Respondents** : Sri Soma Raju, Government Pleader for Irrigation and Command Area Development and Sri Hruthik, learned counsel

**< Gist:**

**> Head Note:**

**? Cases referred:**

- 1) [AIR 1977 SC 276]
- 2) [(2008) 2 SCC 280]
- 3) 2025(5) ALD 477
- 4) (1988) 4 SCC 534
- 5) 2024(3) ALT 559
- 6) (2008) 12 SCC 481
- 7) (2010) 2 SCC 114
- 8) (2013) 9 SCC 199
- 9) (1997) 1 SCC 388
- 10) (2001) 6 SCC 496
- 11) (2006) 3 SCC 549
- 12) (2006) 1 SCC 75
- 13) (1884) 26 Ch D 700

**This Court made the following:**

APHC010476022025



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

**[3331]**

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

**PRESENT**

**THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

**WRIT PETITION NO: 24152/2025**

**Between:**

1. SANKULA NAGARJUNA,, S/O. PEDDA TIRUPALU, AGED ABOUT 42 YEARS, OCC- LABOUR, R/O- 19-91-2/B, BUDAGA JANGALA COLONY, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
2. VEMULA VENKATARAMANA,, S/O- V. DASANNA, AGED 40 YRS, OCC- LABOUR, R/O- 19-259, TELUGUPETA, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
3. VADDE LAXMINARAYANA,, S/O- VADDE SUBBANNA, AGED 52 YRS, OCC- POOJARI, R/O- H.NO.19-129-10-1, TELUGUPETA, NEAR SUNNAM BATTILU, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
4. BUSAYYAGARI RAMASUBBAREDDY,, S/O- BUSAYYAGARI PAPIREDDY, AGED 60 YRS, OCC- FARMER, R/O- 8-367, NEAR PETROL BUNK, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
5. RACHAPODU DURGAMMA,, W/O- NAGAMADDAYYA, AGED 45 YRS, OCC- LABOUR, R/O- 14-116-6, KODAPETA, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
6. MEKALA LAKSHMAMMA,, W/O- MEKALA RAMASUBBAIAH, AGED 51 YRS, OCC- LABOUR, R/O- 19-129/14, TELUGUPETA, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL

DISTRICT, ANDHRA PRADESH.

7. BUSAYYAGARI VENKATA SUBBAMMA,, W/O- B.VENKATA RAMI REDDY, AGED 49 YRS, OCC- HOUSEWIFE, R/O- 8-367, NEAR PETROL BUNK, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
8. SANJEEVA REDDY,, S/O- I.SUBBA REDDY, AGED 44 YRS, OCC- RETD. EMPLOYEE, R/O- 19-129-10-9, TELUGUPETA, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
9. MAMILA SREENIVASULU,, S/O- MAMILA LALAPPA, AGED 35 YRS, OCC- LABOUR, R/O- 19-119, TELUGUPETA, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
- 10.KALUVA KRISHNA,, S/O- K. RAMUDU, AGED 53 YRS, OCC- LABOUR, R/O- 16-208, KONDAPETA, BANUMUKKALA VILLAGE, BANAGANEPALLE MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH

**...PETITIONER(S)**

**AND**

- 1.THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, DEPARTMENT OF IRRIGATION, SECRETARIAT, VELAGAPUDI, AMARAVATHI, ANDHRA PRADESH.
- 2.THE CHIEF ENGINEER, MINOR IRRIGATION, WATER RESOURCE DEPARTMENT (WRD) GOVERNMENT OF ANDHRA PRADESH, 2ND FLOOR, NAMBOORI, D.NO. 14-7-29, GOPALRAO STREET, HANUMANPET, VIJAYAWADA, ANDHRA PRADESH.
- 3.THE DEPUTY EXECUTIVE ENGINEER, M.I. (WORKS SUB-DIVISION), NANDYAL, NANDYAL DISTRICT, ANDHRA PRADESH.
- 4.THE ASSISTANT EXECUTIVE ENGINEER, M.I. (WORKS SECTION), BANAGANEPALLY MANDAL, NANDYAL DISTRICT, ANDHRA PRADESH.
- 5.THE BANAGANEPALLE GRAM PANCHAYATH, REP. BY ITS EXECUTIVE OFFICER, BANAGANEPALLE, NANDYAL DISTRICT, ANDHRA PRADESH.

**...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 a writ order of direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondent Authorities in trying to close the road, which is a way to the Residential Houses of the Petitioners and other residents of Colonies i.e., Budagajangalapeta, B.Papireddy Nagar, Erukalapeta, Madigapeta, Kondapeta, Telugupeta, Moulapahad, Rajareddy Nagar, Owkmetta, Rawalakonda, Chinthamanu Matam, Upparapeta Boyapeta, all are situated at Banumukkala Village, Banaganepalle Mandal, Nandyal District, Andhra Pradesh, which is illegal, arbitrary and also against the Principal of Natural Justice and also Article 21 and 300-A of the Constitution of India and consequently to direct the Respondent No.3 to 5 not to close the road between the Rajareddy Nagar and Papireddy Nagar, situated at Banumukkala Village, Banaganepalle Mandal, Nandyal District, Andhra Pradesh to enable the ingress and egress and the peaceful movement of the Petitioners and Villagers

**IA NO: 1 OF 2025**

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.3 to 5 not to close the road between the Rajareddy Nagar and Papireddy Nagar, situated at Banumukkala Village, Banaganepalle Mandal, Nandyal District, Andhra Pradesh to enable the ingress and egress and the peaceful movement of the Petitioners and Villagers

**IA NO: 2 OF 2025**

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 implead the petitioner as proposed Respondent No. 6 & 7 as necessary and property parties in W.P.No.24152 of 2025 and pass

**Counsel for the Petitioner(S):**

1.SUBRAMANYAM DARABOINA

**Counsel for the Respondent(S):**

1.GP FOR IRRI AND CAD

2.Mattegunta.Sudhir,Standing Counsel For Z.P.Ps,M.P.Ps,Gram Panchayats

**The Court made the following:****::ORDER::**

Heard Sri N.Subba Rao, learned Senior Counsel, assisted by Sri Subramanyam Daraboina, learned counsel for the petitioners, Sri Soma Raju, learned Government Pleader for Irrigation and Command Area Development for respondents 1 to 4 and Sri Hruthik, learned counsel representing Sri M.Sudhir, learned Standing counsel for the 5<sup>th</sup> respondent.

2. The petitioners, ten in number, filed the above writ petition to declare the action of the respondent authorities in trying to close the 30-foot road from Rajareddy Nagar to Papireddy Nagar, Banumukkala Village, Banaganepalle Mandal, Nandyal District, as illegal and arbitrary.

3. The petitioners, as per the averments in the writ affidavit, residents of various colonies of Banumukkala Village, asserted that the villagers have been using the road 'in dispute' for the last seven decades. On 08.09.2025, respondents 3 to 5 and their employees attempted to close the road without giving the petitioners or other villagers any opportunity.

4. An interim order was passed on 23.09.2025, which reads as follows:

"Heard the learned counsel for the petitioners, learned Government Pleader for respondent Nos.1 to 4 and the learned Standing Counsel for respondent No.5.

Learned Government Pleader for Irrigation furnished written instructions issued by respondent No.3, wherein it is stated that the subject land in Sy.Nos.67 & 68 is classified as Vagu Poramboke and now notified as panchayat road as alleged by the petitioners. Therefore, the claim of the petitioner that there is an existing road and it has been catering the needs of the petitioners and others to be proved by the petitioners.

In view of the facts, if any road is in existence as contended by the petitioners, the same cannot be closed by the respondents, for a period of three (3) weeks."

5. A counter-affidavit was filed on behalf of the 3<sup>rd</sup> respondent, specifically denying the existence of any road along the Zurreru Vagu for the past seven decades. It was further contended that the Executive Officer of the Gram Panchayat, Banaganapalle, has certified that no road was in existence as per the Gram Panchayat records. The petitioners, by filing the writ petition, are attempting to stop the ongoing flood protection works relating to Zurreru Vagu. Petitioners 4 and 7 are relatives of one Sri B.V.Subba Reddy, who filed I.A.No.2 of 2025 (implead petition) and is the owner of a function hall. The petitioners have a separate route to reach their respective houses. The petitioners are requesting an additional route by encroaching upon the Zurreru Vagu right bank, and the same is objectionable.

6. As per the revenue records of Banumukkala Village, Sy.Nos.67-1 and 68-1 with an extent of Ac.9.44 cents and Ac.14.66 cents respectively, are reserved for the purpose of natural water flow and flood protection. The Kurnool Urban Development Authority made a request to the Tahsildar, Banumukkala Village, to conduct a survey relating to Sy.Nos.64 and 65 of Banumukkala Village and the Tahsildar submitted a report on 20.11.2024. The respondents are executing the works strictly within the notified boundaries of the Zurreru Vagu. The Zurreru Vagu flows within the limits of Banaganapalle Town.

7. The Panchayat Raj Department is constructing cement concrete drainage canals parallel to the Zurreru Vagu on both sides to prevent sewage and drainage water from flowing directly into the vagu. Two function halls were constructed adjacent to the banks of Zurreru Vagu. Compound walls were constructed by encroaching into the vagu bank. On 23.09.2024, a joint survey was conducted, wherein the authorities found the encroachments. On 10.07.2025, a letter was addressed to the Tahsildar, Banaganapalli, E.O.R.D, Banaganapalli and M.D.O., Banaganapalli, to evict the encroachments. The Chief Engineer, Minor & Medium Irrigation, Vijayawada and the Superintending Engineer, Irrigation Circle, Kurnool, have duly approved the design of the Zurreru Vagu flood protection works on 20.06.2025. Steps have

been taken to enter into an agreement with the contractor for the execution of works relating to the construction of flood protection bunds on both sides of the Zurreru Vagu within the limits of Banaganapalle Town. Eventually, prayed to dismiss the writ petition.

8. Pending the writ petition, the Registrar (Judicial) conducted an inquiry and submitted a report because of the contention of the petitioners 3, 6 and 9, that they did not sign the vakalat. As per the report of the Registrar (Judicial), the petitioners 3, 6 and 9 denied signing the vakalat. Thereafter, the learned counsel for the petitioners filed a memo *vide* U.S.R.No.155817 of 2025 dated 31.12.2025, along with the sworn affidavit of the 9<sup>th</sup> petitioner, whereby he confirmed that he had signed the vakalat and handed it over to the advocate for filing the writ petition. Neither the 3<sup>rd</sup> petitioner nor the 6<sup>th</sup> petitioner filed such an affidavit.

9. Learned senior counsel and learned Government pleader reiterated the contentions as per the averments in the writ affidavit and counter affidavit.

10. **The points for consideration are:**

- a. Whether the petitioners proved the existence of the road as alleged in the writ affidavit.
- b. Are the petitioners entitled to the relief sought in the writ petition?

**Scope of Mandamus under Article 226 of the Constitution of India.**

11. Before delving into the factual aspects, let this court, in the first instance, examine the scope of the Writ of Mandamus since the petitioners filed the writ petition seeking a Mandamus. A Mandamus is a public law remedy, corrective and preventive in nature. Normally, a Mandamus under Article 226 of the Constitution would be issued by a Court when the petitioner establishes or demonstrates the legal right and its infringement, a judicially enforceable right, and the corresponding legal duty or obligation, but failed to



perform, by the party against whom the Mandamus is sought. Some of the judicial precedents of the Apex Court on this point are:

12. The Apex Court considered the scope of Article 226 of the Constitution of India in ***Mani Subrat Jain vs. State of Haryana***<sup>1</sup>, and observed as follows:

"9. ... It is elementary though it is to be restated that no one can ask for a Mandamus without a legal right there must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something. (See Halsbury's Laws of England 4th Ed. Vol I, paragraph 122); State of Haryana Vs. Subash Chander AIR 1973 SC 2216; Jasbhai Motibhai Desai Vs. Roshan, Kumar Haji Bashir Ahmed, AIR 1976 SC 578) and Ferris Extraordinary Legal Remedies paragraph 198."

13. The said principle was reiterated in ***Oriental Bank of Commerce vs. Sunder Lal Jain***<sup>2</sup>, The apex Court emphasized the necessity to establish the existence of legal right and its infringement for the grant of Writ of Mandamus in this context the Court referred to the principles stated in *The Law of Extraordinary Legal Remedies* by F.G. Ferris and F.G. Ferris, Jr. (para 11), which describe *mandamus* as a highly prerogative writ issuing to compel the performance of a plain, positive, specific and ministerial duty imposed by law when there is no other adequate and specific legal remedy available.

14. The said ratio was reiterated by this court in ***Shaik Basheed vs. State of Andhra Pradesh***<sup>3</sup>. Keeping the ratio in the aforementioned judgments, let this court examine the claim of the petitioners.

### IMPORTANCE OF PLEADINGS IN WRIT AFFIDAVIT.

15. Pleadings in the writ affidavit are essential to adjudicate the dispute judiciously and effectively. The pleadings play a pivotal role in determining the

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<sup>1</sup> [AIR 1977 SC 276]

<sup>2</sup> [(2008) 2 SCC 280]

<sup>3</sup> 2025(5) ALD 477

issues. Unlike a plaint in a Civil suit, in a writ petition (affidavit) all facts must be pleaded by annexing the relevant documents. Since the petitioners are invoking the extraordinary jurisdiction, the burden is heavier than in a Civil Suit. The statement in a writ affidavit is a statement of fact on oath, and hence it must be strictly proved. The pleading should contain the right and its violation, and how the violation is illegal.

16. The Hon'ble Apex Court in ***Bharat Singh vs. State of Haryana***<sup>4</sup>, highlighted the importance of the pleadings and the supporting material, in a writ petition, observed as follows:

**“13. As has been already noticed, although the point as to profiteering by the State was pleaded in the writ petitions before the High Court as an abstract point of law, there was no reference to any material in support thereof nor was the point argued at the hearing of the writ petitions. Before us also, no particulars and no facts have been given in the special leave petitions or in the writ petitions or in any affidavit, but the point has been sought to be substantiated at the time of hearing by referring to certain facts stated in the said application by HSIDC. In our opinion, when a point which is ostensibly a point of law is required to be substantiated by facts, the party raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter-affidavit, as the case may be, the court will not entertain the point. In this context, it will not be out of place to point out that in this regard there is a distinction between a pleading under the Code of Civil Procedure and a writ petition or a counter-affidavit. While in a pleading, that is, a plaint or a written statement, the facts and not evidence are required to be pleaded, in a writ petition or in the counter-affidavit not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it. ....( Emphasis is mine)”**

The said principle was emphasised and reiterated in ***Dungala Yerra Patrudu vs. Hahs P.Krishna Murthy***<sup>5</sup>.

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<sup>4</sup> (1988) 4 SCC 534

<sup>5</sup> 2024(3) ALT 559

17. The petitioners, in their affidavit, having asserted the existence of a particular road, however, failed to demonstrate the existence of the road in question, except for pleading 30-feet road existed for seven decades from Rajareddy Nagar to Papireddy Nagar. The petitioners filed photographs to prove the existence of the alleged road. The photographs, filed along with the writ petition, at page Nos.42 to 52, do not indicate the existence of the road alleged. The two photographs filed on page 53 would disclose a pathway at the extreme end of the photograph. The petitioners would have filed either the village map or other relevant document to demonstrate the existence of the road. The photographs filed by the petitioner, in the considered opinion of this court, do not enure to the benefit of the petitioners. The photographs, indeed, do not establish the existence of the road as pleaded by the petitioners.

18. It is pertinent to mention here that ten petitioners aged 35 to 60 filed the writ petition. In paras 3 to 5 of the affidavit it was pleaded that:

“3. ... the petitioners constructed their houses and residing in the above localities for last 50 years. They have been using the road for the last 70 years.”

4. ... approximately 3000 families are residing in the above mentioned colonies. There is only 30 feet road got to those colonies from Rajareddy Nagar to Papireddy Nagar. This is the only road to the colony people and the petitioners to ingress and egress to go and have their day to day jobs....”

5. .... On this road important religious and cultural places, namely Jammulamma Temple, Shekshavali Dargah and Maremma Temple....”

The pleadings, extracted supra, go to the root of the issue and lack coherence.

19. Having pleaded, the petitioners failed to file any supporting documents as mandated in the Writ Proceeding Rules, except for the photographs of some of the houses. It is also pertinent to mention here that no rejoinder or reply was filed by the petitioners to the counter-affidavit filed by the 3<sup>rd</sup> respondent. Concerning the age mentioned in the cause title, the construction

of houses by the petitioners creates a great deal of doubt in the mind of the court.

20. In the counter-affidavit filed by the 3<sup>rd</sup> respondent, it was contended that the right bank of Zurreru Vagu is being used as an unauthorised track. To the specific plea in the counter affidavit, no reply was filed by the petitioners. Unless the petitioners demonstrate the existence of the road by placing cogent material, in the teeth of the averments in the counter affidavit, this Court is handicapped from recording a positive finding in that regard vis-à-vis issuance of a Mandamus. The petitioners also failed to demonstrate their legal right. The petitioners, in the considered opinion of this court, did not disclose correct facts and approached the Court by invoking the extraordinary jurisdiction. Thus, this court concludes that the petitioners approached this with unclean hands and hence they are not entitled to equitable and discretionary relief. In the facts and circumstances, this court applies the doctrine of '**suppresio vari and expressio falsi**'.

21. The Hon'ble Apex Court in ***K.D. Sharma vs. Steel Authority of India Limited and others***<sup>6</sup>, observed as under:

"39. If the primary object as highlighted in Kensington Income Tax Commrs. [(1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (CA)] is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court."

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<sup>6</sup> (2008) 12 SCC 481

22. In ***Dalip Singh vs. State of Uttar Pradesh and Others***<sup>7</sup>, the Hon<sup>ble</sup> Apex Court, considering the new creed of litigants, who are far away from the truth, observed as under:

“For many centuries Indian society cherished two basic values of life i.e. “satya” (truth) and “ahimsa” (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice delivery system which was in vogue in the pre- Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post- Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.

In the last 40 years, a new creed of litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.”

23. The Hon'ble Apex Court in ***Moti Lal Songara vs. Prem Prakash @ Pappu and another***<sup>8</sup>, considered concealment of facts before the Court and observed as under:

“19. The second limb of the submission is whether in the obtaining factual matrix, the order passed by the High Court discharging the respondent-accused is justified in law. We have clearly stated that though the respondent was fully aware about the fact that charges had been framed against him by the learned trial Judge, yet he did not bring the same to the notice of the Revisional Court hearing the revision against the order taking cognizance. It is a clear case of suppression. It was within the special knowledge of the accused. Anyone who takes recourse to method of suppression in a court of law, is, in actuality, playing fraud upon the court, and the maxim suppressio veri, expressio falsi i.e. suppression of the truth is equivalent to the

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<sup>7</sup> (2010) 2 SCC 114

<sup>8</sup> (2013) 9 SCC 199

expression of falsehood, gets attracted. We are compelled to say so as there has been a calculated concealment of the fact before the Revisional Court. It can be stated with certitude that the respondent-accused tried to gain advantage by such factual suppression. The fraudulent intention is writ large. In fact, he has shown his courage of ignorance and tried to play possum.

20. The High Court, as we have seen, applied the principle “when infrastructure collapses, the superstructure is bound to collapse”. However, as the order has been obtained by practising fraud and suppressing material fact before a court of law to gain advantage, the said order cannot be allowed to stand. ...”

### **Would the Public Trust Doctrine apply to the facts of the case?**

24. A Public Trust Doctrine postulates that certain natural resources are held by the State in trust for the benefit of the public, and the State cannot transfer, alienate or permit their use in a manner that overthrows the public interest. The state must hold the resources in trust for the present and also future generations. Article 51A(g) of the Constitution of India states that it is the fundamental duty of the citizens to protect the natural resources.

25. The material on record, *prima facie*, indicates the existence of Zurreru Vagu and its banks in Sy.No.67-1 and 68-1. The banks of the Vagu need to be strengthened from time to time. Unless the banks are strengthened, it endangers the lives of the people in the vicinity during the floods or whenever there is an overflow of the water due to certain climatic conditions. The water bodies, beds, bunds and banks cannot be alienated, encroached upon or diverted for private or non-public purposes. The banks/bunds of tanks are an integral part of the water body. Any encroachment, construction or regularisation on the tank banks violates the Public Trust Doctrine.

26. The Hon’ble Supreme Court in ***M.C.Mehta vs. Kamal Nath***<sup>9</sup>, has held that Vagus, waterbodies and natural resources are held by the State in trust for the benefit of the public under the Public Trust Doctrine and cannot be encroached upon or diverted for private use.

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<sup>9</sup> (1997) 1 SCC 388

27. In *Hinch Lal Tiwari vs. Kamala Devi*<sup>10</sup>, the Hon'ble Apex Court directed the removal of encroachments from ponds and waterbodies and further observed that such resources must be preserved for the public welfare.

28. In *Intellectuals Forum vs. State of A.P*<sup>11</sup>, the Apex Court also reiterated that tanks, lakes and similar natural resources are subject to the Public Trust Doctrine, which requires the State to act as a trustee of such communal resources for the benefit of the public and future generations. The Court explained that while the doctrine does not absolutely prohibit alienation of public trust resources, any action of the Government that restricts free public use of such resources must be subjected to a high degree of judicial scrutiny and balanced against ecological interests, sustainable development and constitutional obligations relating to environmental protection.

29. discussed supra, in the absence of any supporting or substantial material regarding the existence of the alleged road from Rajareddy Nagar to Papireddy Nagar for seven decades, coupled with the material on record, this Court has unable to accept the said contention, and this Court concludes that the petitioners failed to prove the existence of the alleged 30-foot road and it is a vagu bank. There are no merits in the writ petition, and the same is liable to be dismissed.

30. As noted supra, pending the writ petition, three out of ten petitioners denied signing the vakalat and thus, the co-ordinate bench of this Court directed the learned Registrar (Judicial) to conduct an enquiry and submit a report. Accordingly, the Registrar (Judicial) submitted the report. This Court perused the contents of the report meticulously. Given the unhealthy developments, the incidental question that needs to be adjudicated is:

#### **Importance of attestation of Vakalat:**

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<sup>10</sup> (2001) 6 SCC 496

<sup>11</sup> (2006) 3 SCC 549



31. A vakalat, in legal parlance, is a written authority executed by a litigant in favour of an Advocate authorising the latter to act, plead, appear and conduct the proceedings before the Court or tribunal. Order III Rules 1 & 4 and Rules 31 and 32 of the Civil Rules of Practice and Rule 23 of Appellate Side Rules deal with Vakalat and its attestation. Indeed, an advocate derives authority to act only through a valid vakalat.

32. Attestation of a Vakalatnama is not a mere procedural formality; however, it is a mandatory safeguard to ensure the genuineness of authorisation and to prevent impersonation or unauthorised institution of proceedings. It assures the Court that the litigant has consciously and validly conferred authority on the advocate to act and plead on his behalf, thereby preserving the sanctity of judicial proceedings. In other words, the attestation of a vakalat, by the competent authority, protects advocates from the unholy claim by a litigant at a later point in time vis-à-vis denial of signature. It also protects the interests of litigants regarding the scope and authority conferred by them on the advocate. At the same time, the due attestation also assists the Courts in the administration of justice qua the recognised agents.

33. The procedure relating to filing, execution and acceptance of vakalatnama in the High Court of Andhra Pradesh is specifically governed by the Appellate Side Rules. Rule 23 of the Appellate Side Rules of the High Court of Andhra Pradesh prescribes that a vakalatnama must be executed or its execution attested only before specified authorities, and such attestation must be accompanied by a certificate of execution with the attesting authority's signature and designation. In furtherance, Rule 26 mandates that every vakalatnama be dated at the time of execution to fix the precise point at which authority is conferred, and Rule 27 requires that the advocate or attorney endorsing the vakalatnama must record his name and the date of such endorsement, thereby ensuring accountability and a clear record of the advocate's acceptance of authority to act. By attesting, the advocate or attesting authority certifies that the litigant executed the vakalat in his/her



presence. The attestation also drew a valid presumption regarding the signing of a vakalat by a litigant.

34. Order III Rule 4 of the Code of Civil Procedure, 1908 provides that no pleader shall act for a party in any Court unless appointed by a written document signed by the party, his recognised agent, or a person authorised by a power of attorney, which must be filed in Court and remains in force until determined with leave of the Court or until the death of the client or pleader; this statutory mandate reinforces the requirement that an advocate can represent a litigant only upon a proper written appointment being made and placed on record. Civil Rules of Practice also prescribes the similar procedure.

35. A conjoint reading of the Appellate Side Rules, Civil Rules of Practice and Order III Rule 4 CPC underscores that the attestation and proper execution of a vakalatnama are essential safeguards to ensure that an advocate's authority is legitimately conferred and that the Court can rely upon it without any doubt. Attestation, when coupled with certification of execution, prevents unauthorised representation and impersonation, and provides confidence that the person signing the document is indeed the litigant or a duly authorised agent. **The attestation causes the legal sanctity to the relationship. Without a valid attestation, the vakalat may be treated as 'defective'.**

36. In this case at hand, as noted supra, petitioners 3, 6 and 9 pending the writ petition denied the signing of the vakalat. In view of the said allegations, the Court directed the learned Registrar (Judicial) to conduct an enquiry and to submit a report. Accordingly, the Registrar, Judicial submitted a report. After the said report, the 9<sup>th</sup> petitioner filed an affidavit and asserted to signing the vakalat. Regarding the inquiry conducted by the Registrar (Judicial), though it is not the primary issue in the present writ petition, very often, whenever writ petitions are being filed by more than two or three persons, one or another among the petitioners, due to various reasons, complains and denies the

signature on the vakalat, and those instances are increasing. These instances definitely cause obstacles in the noble profession and also embarrass the legal fraternity specially the advocate community. Sometimes, this type of unholy litigation demoralises the confidence of the advocates.

37. In *Uday Shankar Triyar v. Ram Kalewar Prasad Singh*,<sup>12</sup> the Hon'ble Apex Court considered the defect in signing the memorandum of appeal and the defect in the authority in signing the memorandum of appeal or the omission to file vakalatnama along with the appeal, perse, would not invalidate the appeal if such an act is not deliberate. In that regard, the Hon'ble Apex Court at para 21 cautioned about attestation etc., observed as follows:

**"21.** We may at this juncture digress and express our concern in regard to the manner in which defective vakalatnamas are routinely filed in courts. Vakalatnama, a species of power of attorney, is an important document, which enables and authorises the pleader appearing for a litigant to do several acts as an agent, which are binding on the litigant who is the principal. It is a document which creates the special relationship between the lawyer and the client. It regulates and governs the extent of delegation of authority to the pleader and the terms and conditions governing such delegation. It should, therefore, be properly filled/attested/accepted with care and caution. **Obtaining the signature of the litigant on blank vakalatnamas and filling them subsequently should be avoided.** We may take judicial notice of the following defects routinely found in vakalatnamas filed in courts: (emphasis is mine)

(a) Failure to mention the name(s) of the person(s) executing the vakalatnama and leaving the relevant column blank.

(b) Failure to disclose the name, designation or authority of the person executing the vakalatnama on behalf of the grantor (where the vakalatnama is signed on behalf of a company, society or body) by either affixing a seal or by mentioning the name and designation below the signature of the executant (and failure to annex a copy of such authority with the vakalatnama).

(c) Failure on the part of the pleader in whose favour the vakalatnama is executed, to sign it in token of its acceptance.

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<sup>12</sup> (2006) 1 SCC 75

(d) Failure to identify the person executing the vakalatnama or failure to certify that the pleader has satisfied himself about the due execution of the vakalatnama.

(e) Failure to mention the address of the pleader for purpose of service (in particular in cases of outstation counsel).

(f) Where the vakalatnama is executed by someone for self and on behalf of someone else, failure to mention the fact that it is being so executed. For example, when a father and the minor children are parties, invariably there is a single signature of the father alone in the vakalatnama without any endorsement/statement that the signature is for “self and as guardian of his minor children”. Similarly, where a firm and its partner, or a company and its director, or a trust and its trustee, or an organisation and its office-bearer, execute a vakalatnama, invariably there will be only one signature without even an endorsement that the signature is both in his/her personal capacity and as the person authorised to sign on behalf of the corporate body/firm/society/organisation.

(g) Where the vakalatnama is executed by a power-of-attorney holder of a party, failure to disclose that it is being executed by an attorney-holder and failure to annex a copy of the power of attorney.

(h) Where several persons sign a single vakalatnama, failure to affix the signatures seriatim, without mentioning their serial numbers or names in brackets. (Many a time it is not possible to know who have signed the vakalatnama where the signatures are illegible scrawls.)

(i) Pleaders engaged by a client, in turn, executing vakalatnamas in favour of other pleaders for appearing in the same matter or for filing an appeal or revision. **(It is not uncommon in some areas for *mofussil* lawyers to obtain signature of a litigant on a vakalatnama and come to the seat of the High Court and engage a pleader for appearance in a higher court and execute a vakalatnama in favour of such pleader.)** (emphasis added)

We have referred to the above routine defects, as Registries/offices do not verify the vakalatnamas with the care and caution they deserve. Such failure many a time leads to avoidable complications at later stages, as in the present case. The need to issue appropriate instructions to the Registries/offices to properly check and verify the vakalatnamas filed requires emphasis. Be that as it may.”

38. In the case at hand, as noted supra, three petitioners out of ten petitioners denied their signature on the vakalat. This Court verified the attestation on the vakalat. Unfortunately, the name of the advocate attested doesn't find a place. Even the code number was not mentioned. Except for the initial, nothing was mentioned in the vakalat. However, as per the observations in Uday Sankar's case, had the registry pointed out the same, it would have been rectified. Of course, as pointed out supra, a valid presumption is available whenever an attestation was made regarding the signatures made by the parties on the vakalat. The scope of the enquiry regarding the issue, in the considered opinion of this Court, is summary. In the report, it was also mentioned that the petitioners, 3,6 and 9, signed on a paper without knowing the contents. Thus, in one way, the petitioners 3,6 and 9 are not denying their signing. However, such a plea was raised pending the litigation, and again 9<sup>th</sup> petitioner asserted to sign the vakalat. This court, in view of the contents of the report, prima facie, believes that the petitioners 3,6 and 9 signed the vakalat. In view of the said discussion and peculiar facts, this court is not adjudicating the claim of the petitioners 3 and 6 vis-à-vis the signature on the vakalat going into deep of the issue.

39. Having dealt with the issue, though incidental, this court cautions the learned advocates regarding the attestation in the best interest of the advocate community. The attestor shall mention the name and code number assigned by the Bar Council at the time of enrolment while attesting the Vakalatnama. Such a course, in the opinion of this court, protects the interest of the advocate community from subsequent unholy and unpleasant events, like the one narrated supra.

40. In this connection, the observations of **Bowen, L.J., in Cropper vs. Smith**<sup>13</sup>, are referred to with advantage:

"The object of courts is to decide the rights of parties and not to punish them for mistakes which they make in the conduct of their cases by deciding otherwise than in accordance with their rights.... Courts do

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<sup>13</sup> (1884) 26 Ch D 700

not exist for the sake of discipline, but for the sake of deciding matters in controversy.”

41. Given the discussion supra, and facts and circumstances of the case, this Court does not find any merit to issue a writ of Mandamus. The writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

42. The Registrar (Judicial) shall instruct the registry to verify the attestation on vakalatnamas during the ‘scrutiny’ scrupulously.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

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**JUSTICE SUBBA REDDY SATTI**

Dated: 21.01.2026  
SNI

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THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

**WRIT PETITION No.24152 OF 2025**

Dated: 21.01.2026

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