

**HIGH COURT OF ANDHRA PRADESH:: AMARAVATI**

**MAIN CASE NO.: W.P(SR).No.23542 of 2021**

**PROCEEDING SHEET**

<b>Sl. No.</b>	<b>Date</b>	<b>ORDER</b>	<b>OFFICE NOTE</b>
1.	15.08.2021	<p><b><u>MSM,J</u></b></p> <p>(As per the oral information given by learned Registrar (Judicial), this matter is taken up as House-Motion through video conferencing)</p> <p style="text-align: center;"><b><u>I.A.No.1 of 2021</u></b></p> <p>The case of the petitioners is that the fourth respondent issued possession certificates in favour of the petitioners for an extent of Ac.0.02 cents each in Sy.No.652/10 of Bodumalluvaripalli Grampanchayat Piler Mandal, Chittoor District on 06.10.2015 and since then they are in possession and enjoyment of the same raising pucca constructions, obtained Electricity Connections to their houses and the houses were assessed to tax by the Panchayat. They placed on record the house tax receipts and electricity bills evidencing payment of both property tax and electricity consumption charges to the concerned Departments. Since then the petitioners are in possession and enjoyment of the properties without interruption by anybody.</p> <p>The grievance of the petitioners is that the respondents 2 to 4 along with their staff came to the subject property on 15.08.2021 i.e. on the Independence Day/Public Holiday and threatening to demolish the existing houses without issuing any notice or following due process of law. Hence, the petitioners filed the present Writ Petition.</p> <p>Heard Sri Vutupalli Rajanna, learned counsel for the petitioners, and learned Assistant Government Pleader for Revenue appearing for the respondents.</p> <p>Learned counsel for the petitioners submits that the</p>	

petitioners cannot be dispossessed from the subject lands without following due process of law as held by the Apex Court in **Rame Gowda vs. M. Varadappa Naidu (AIR 2004 SC 4609)**. The possession certificates issued by the fourth respondent to the petitioners are not cancelled till date by following due process of law and, as such, they cannot be dispossessed.

On the other hand, learned Assistant Government Pleader for Revenue appearing for the respondents seeks time to obtain instructions from the concerned officials.

Even assuming for a moment that the petitioners are in unlawful possession still the respondents are under obligation to issue notice and follow due process of law to evict the petitioners, who are allegedly in possession of the property.

The main reason for approaching this Court is that the respondents are trying to demolish their buildings. However, the learned Assistant Government Pleader is unable to obtain instructions within a short time.

Apart from that, the demolition of the building on the festival is deprecated as held by the Full Bench of the composite High Court in **3 Aces, Hyderabad vs Municipal Corporation Of Hyderabad (AIR 1995 AP 17)** laid down the following guide lines.

*“When the Corporation comes to the conclusion, keeping the above guidelines in view, that the construction in question is required to be demolished or pull down, it should follow the procedure indicated below:*

*(i) The demolition should not be resorted to during festival days declared by the State Government as public holidays excluding Sundays. If the festival day declared by the Government as a public holiday falls on a Sunday, on that Sunday also, the Corporation should not resort to demolition.*

*(ii) In any case, there should not be any demolition after sun set and before sun rise.*

*(iii) The Corporation should give notice of demolition as required by the statute fixing the date of demolition. Even on the said date, before actually resorting to the demolition, the Corporation should give reasonable time, depending upon the premises sought to be demolished, for the inmates to*

*withdraw from the premises. If within the time given the inmates do not withdraw, the Corporation may proceed with actual demolition;*

*These guidelines are laid down in view of the fact that the Corporation is a public authority and its action must be tested on the touchstone of fairness and reasonableness.”*

Taking advantage of the Public Holiday, the respondents started demolishing the constructions without following due process of law i.e., evicting the petitioners on the ground of unauthorised occupation, which is impermissible in law.

In any view of the matter, *prima facie*, the petitioners are in possession. If no interim direction is issued, awaiting for instructions of the learned Assistant Government Pleader, there is possibility of demolishing the buildings in the meanwhile. Therefore, considering the urgency, the following order is passed:

Having regard to the facts and circumstances of the case; considering the submissions and in the light of the law down by the Apex Court, the respondents are directed not to demolish the existing structures of the petitioners in the subject land to an extent of Ac.0.02 cents each in Sy.No.652/10 of Bodumalluvaripalli Grampanchayat Piler Mandal, Chittoor District, for a period of one week from today.

For obtaining instructions, list on 17.08.2021 in the Motion List.

**MSM,J**  
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