

**IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI**  
**HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE**  
**&**  
**HON'BLE MR. JUSTICE A.V.SESHA SAI**

**WRIT APPEAL No.819 OF 2023**

A.Venkatramaiah, s/o Venkataswamy, Hindu,  
Aged about 77 years, Bhakarapeta Village,  
Chinnagottigallu Mandal,  
Tirupati District and eight others.

...Appellants

Versus

Kanasetty Sundararaja Gupta, s/o Subbaraya Chetty,  
Hindu, aged about 64 years, Occ: Cultivation & trade,  
r/o Bazar Street, Bhakarapet Village,  
Chinnagottigallu Mandal,  
Tirupati District and five others.

...Respondents

**Dt.22.08.2023**

**P.C:**

The present appeal has been preferred against the judgment and order dated, 08.08.2023, whereby the application filed by the appellants before the Writ Court for impleadement as party respondents as also the application filed for vacation of the interim order, dated 08.08.2023, have been dismissed.

2. The Writ Petition came to be filed before the Writ Court bearing W.P.No.43781 of 2017, in which they

highlighted alleged illegal act of construction of a temple in Government property and, therefore, sought a direction to the respondents to demolish the existing structure in Sy.No.22 of Bakarapet Village, Chinnagottigallu Mandal, Chittoor District.

3. By virtue of an interim order, dated 27.07.2023, the Writ Court directed the official respondents to ensure the removal of the structure, within two weeks from the said date, and further directed filing of a compliance report. It is in that background that the aforementioned two applications came to be filed, which were rejected by the Writ Court. In so far as the application for impleadment is concerned, the Writ Court has held that the appellants had no locus to seek an impleadment in the Writ Petition and participate in the Writ proceedings. Consequently, the application filed by the appellants, seeking modification of the interim order, dated 08.08.2023, also was dismissed. Learned counsel for the appellants has drawn our attention to the order passed by the Apex Court on 31.01.2018 in ***Union of India and another vs. State of Gujarat and others***, which has also been referred to by the Writ Court

in its interim order, dated 08.08.2023. It appears that the issue before the Apex Court *inter alia* pertains to the unauthorized constructions of religious nature, which have come up on public streets, public parks and other public places. The order, *supra*, clearly reflects that a direction has been given to all the State Governments and Union Territories to formulate a comprehensive policy regarding the removal/relocation/ regularization of the unauthorized constructions within six weeks from the said order, dated 16.02.2010, which is reflected in the order *supra*. The order further mandates that the policy should clearly indicate within what period the States and Union Territories were going to fully comply with its policy to remove/relocate or regularize the unauthorized constructions.

4. Learned counsel for the appellants states that although the order passed by the Hon'ble Supreme Court in the order *supra* has been relied upon by the Writ Court, yet, it had failed to notice the essence of the order in as much as there was no direction or mandamus issued by the Apex Court, directing the State authorities to proceed

to demolish all such constructions of religious character without even framing a policy as was envisaged by the Apex Court in its order, dated 16.02.2010. It is, thus, stated that any order of demolition of the temple, in question, in the absence of a comprehensive policy, which was directed to be framed, would be in direct contravention of the orders of the Apex Court.

5. With a view to get some clarity on the issue, as to whether policy, as envisaged by the Apex Court, has been put in place or not, we requested the learned Advocate General to appear in the matter. The learned Advocate General very fairly stated that he would have to verify as to whether the Government had at all put such a policy in place and, therefore, requested for some time to take instructions.

6. Be that as it may, the necessity to frame a policy as per the directions of the Apex Court cannot be ignored or dispensed with and, therefore, any action with regard to demolition of a structure, which is constructed on Government land, would have to be sub-serviant to any

such policy either already framed or to be framed by the Government.

7. Apart from this, we feel that the appellants could be said to be persons interested in the litigation as devotees and would have a right to participate in the proceedings before the Writ Court in the Writ proceedings. In this regard, reference can be made to the definition of a person having interest under Sub-Section 18 of Section 2 of the Andhra Pradesh Charitable and Hindu Religious Interests and Endowments Act, 1987, which defines a person having interest as under:

*“(18) ‘person having interest’ includes:-*

- (a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;*
- (b) in the case of a charitable institution or endowment or a religious institution other than a math or a religious endowment, a person who is entitled to attend at or is in the habit of attending the performances of service, charity or worship connected with the institution or endowment or who is entitled to partake or is in the ;habit of partaking*

*in the benefit of any charity or the distribution of gifts thereat;*

*(c) In the case of a specific endowment, a person who is entitled to attend at or is in the habit of attending the performance of the service or charity or who is entitled to partake or is in the habit of partaking in the benefit of the charity.”*

8. Considering the nature of the controversy and the fact that the action of demolition of a construction of a religious character would have a direct bearing as regards the directions issued by the Apex Court in the judgment and order *supra*, we would, therefore, not only direct the impleadment of the appellants, as party respondents in the W.P.No.43781 of 2017, who shall figure as respondent Nos. 6 to 14 therein, but also direct maintenance of *status-quo* for a period of three weeks, till such time, as the learned Government Pleader or the learned Advocate General throws some light on the issue, as has been discussed hereinabove, before the Writ Court. The application filed by the appellants for vacation of the interim order would

consequently get revived and be considered afresh, depending upon the response which may be submitted by the learned Advocate General or any of his law officers from his Office.

9. Writ Appeal is, accordingly, disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this case, shall stand closed.

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**DHIRAJ SINGH THAKUR, CJ**

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**A V SESA SAI, J**

22<sup>nd</sup> August, 2023.  
VTS