



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

**[3457]**

THURSDAY, THE NINTH DAY OF OCTOBER  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE HARINATH.N**

**WRIT PETITION NO: 4948/2023**

**Between:**

1.SAGAR NAGAR RTD LAYOUT PLOT OWNERS AND  
RESIDENCES WELFARE ASSOCIATION, REGD. NO, 210 OF  
2022, 8-4-6/3, 4TH FLOOR, TARA GEV APARTMENT,  
DOCTORS COLONY, PEDAWALT AIR, VISAKHAPATNAM.  
REP. BY ITS SECRETARY.

**...PETITIONER**

**AND**

- 1.THE STATE OF ANDHRA PRADESH, REP. BY IT'S PRINCIPLE  
SECRETARY (MAANDUD), SECRETARIAT BUILDINGS,  
VELAGAPUDI, AMARAVATHI.
- 2.THE COMMISSIONER, GREATER VISAKHAPATNAM  
MUNICIPAL CORPORATION, VISAKHAPATNAM.
- 3.THE DISTRICT COLLECTOR, VISAKHAPATNAM DISTRICT.
- 4.THE ZONAL COMMISSIONER, ZONE-II, MATHURAWADA,  
GREATER VISAKHAPATNAM MUNICIPAL CORPORATION,  
VISAKHAPATNAM.
- 5.THE DISTRICT MINORITIES WELFARE OFFICER, DISTRICT  
COLLECTOR'S OFFICE, VISAKHAPATNAM.
- 6.THE VISAKHAPATNAM METROPOLITAN REGION  
DEVELOPMENT AUTHORITY, 8TH FLOOR, UDYOG BHAVAN,  
SIRIPURAM JUNCTION, VISAKHAPATNAM. REP. BY IT'S  
PLANNING OFFICER.
- 7.SAGAR NAGAR MASJIDEAYESHA ASSOCIATION, 4-160, HIG-  
II-160, SAGAR NAGAR, YENDADA, VISAKHAPATNAM. REP.

BY ITS PRESIDENT

**...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 a writ of MANDAMUS or any other appropriate writ, order, or direction declaringthe action of the 2nd respondent in not considering the several representations, lastly dated 12.12.2022 requesting to stop and demolish the construction being done by the 7th respondent in Plot No. 26 of the Visakhapatnam Regional Transport Department Employee's Co-operative House Building Society Limited, Sagar Nagar, Visakhapatnam, illegally without permissions and causing severe inconvenience to the residents, as illegal, arbitrary, unconstitutional, violative of Articles 14 and 300-A of Constitution of India and violative of the Provisions of the Municipal Corporation Act in the interest of justiceand consequently C.OMMAND the 2ndrespondent to demolish the unauthorized construction raised by the 7th respondent in the subject property in the irterest of justice and pass

**IA NO: 1 OF 2023**

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 pleased to DIRECT the respondentsnot to conduct any operations in the subject property- Plot No. 26 of the Visakhapatnam Regional Transport Department Employee's Co-operative House Building Society Limited, Sagar Nagar, Visakhapatnam, in the interest of justice and pass

**IA NO: 2 OF 2023**

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 pleased to DIRECT the respondents to take immediate action against the illegal structure raised in the subject property, bearing Plot No. 26 of the Visakhapatnam Regional Transport Department Employee's Co-operative House Building Society Limited, Sagar Nagar, Visakhapatnam, in the interest of justice and pass

**IA NO: 3 OF 2023**

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 8th Respondent in the Writ Petition No. 4948 of 2023 as well as in IA of 2023

**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 implead the Proposed Respondent No.8 herein as Party Respondent No.8 in W.P.No.4948/2023 and pass

**Counsel for the Petitioner:**

1.J.V.PHANIDUTH

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

1.SHAIK KHADAR BASHA

2.GP FOR MUNICIPAL ADMN URBAN DEV

3.A S C BOSE (SC FOR MUNICIPAL CORPORATIONS AP)

4.Somisetty Ganesh Babu SC For VUDA and MUDA

**The Court made the following:**

APHC010065472025



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

**[3457]**

THURSDAY, THE NINTH DAY OF OCTOBER  
TWO THOUSAND AND TWENTY FIVE

**PRESENT**

**THE HONOURABLE SRI JUSTICE HARINATH.N**

**WRIT PETITION NO: 3434/2025**

**Between:**

1. MOHAMMAD IRFAN, S/O. LATE MOHAMMAD JALAL, AGED ABOUT 35 YEARS, HEREDITARY MUTHAWALLI, MASJID-E-AYISHA SUNNA (ABLE HADEES MOSQUE), PLOT NO.26, RTD LAYOUT, MUSALAYYAPALEM, SAGAR NAGAR, VISAKHAPATNAM, R/O. H.NO.24-49-39A, AMBUSARANG STREET, OLD POST OFFICE, I TOWN, VISAKHAPATNAM - 530001

**...PETITIONER**

**AND**

1. THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT DEPARTMENT, A.P. SECRETARIAT AT VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT
2. THE GREATER VISAKHAPATNAM MUNICIPAL CORPORATION GVMC, REP. BY ITS COMMISSIONER, VISAKHAPATNAM
3. THE DISTRICT COLLECTOR, VISAKHAPATNAM DISTRICT, VISAKHAPATNAM
4. THE ASSISTANT CITY PLANNER, ZONE-LL, GVMC, VISAKHAPATNAM
5. THE A P STATE WAKF BOARD, REP. BY ITS CHIEF EXECUTIVE OFFICER, 4TH AND 5TH FLOOR IMDAD GHAR, OPP. KALESWARARAO MARKET, VIJAYAWADA, KRISHNA

**DISTRICT**

6.SAGAR NAGAR RTD LAYOUT PLOT OWNERS AND RESIDENCES WELFARE ASSOCIATION, REGD. NO.210/2022, 8-4-6/3, 4TH FLOOR, TARA GEV APARTMENT, DOCTORS COLONY, PEDDA WALTAIR, REP. BY ITS SECRETARY

**...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 mostly one which is in the nature of a Writ of Mandamus declaring the Final Order vide Rc.No.011/2022/GVMC/ACP-II/G1, dt.26.10.2023 of the 4th Respondent with respect to premises in Masjid-E-Ayisha Sunna (Able Hadees Mosque), Plot No.26, RTD Layout, Musalayypalem, Sagar Nagar, Visakhapatnam being contrary to A.P. Municipal Corporation Act, 1955 and A.P. Metropolitan Region and Urban Development Authorities Act, 2016 as illegal, arbitrary, unreasonable, in violation of principles of natural justice, without jurisdiction, unconstitutional, unjustified and unsustainable and set-aside the same and pass

**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 Respondents 1 to 4 not to demolish the premises in Masjid-E-Ayisha Sunna (Able Hadees Mosque), Plot No.26, RTD Layout, Musalayypalem, Sagar Nagar, Visakhapatnam in pursuance of the Final Order vide Rc.No.011/2022/GVMC/ACP-II/G1, dt.26.10.2023 of the 4th Respondent and pass

**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 vacate the interim order, dated 07.02,2025 passed in the above writ petition and dismissed the writ petition as devoid of merits with exemplary costs, in the interests of justice and pass

**Counsel for the Petitioner:**

1.CHERUVU CHAITANYA BHARGAVA SARMA

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

- 1.GP FOR REVENUE
- 2.A S C BOSE (SC FOR MUNICIPAL CORPORATIONS AP)
- 3.J.V.PHANIDUTH
- 4.GP MUNICIPAL ADMN AND URBAN DEV AP
- 5.SHAIK KHAJA BASHA

**The Court made the following:**

**THE HON'BLE SRI JUSTICE HARINATH. N****WRIT PETITION Nos.4948 of 2023 and 3434 of 2025****COMMON ORDER :**

1. WP.No.4948 of 2023 is filed by Sagar Nagar RTD Layout Plot Owners and Residences Welfare Association challenging the inaction on part of the 2<sup>nd</sup> respondent in taking action against the unauthorized construction by the 7<sup>th</sup> respondent. A counter is filed by the 2<sup>nd</sup> respondent duly informing that the respondent corporation has issued notice dated 07.05.2022 under Section 452 (1) and 461(1) of AP Municipalities and Corporation Act and called upon the petitioner to submit an explanation and that efforts to involve the religious leaders for resolving the dispute in amicable manner. Failing which further action under the AP Municipalitiess and Corporation Act would be initiated.
2. Be that as it may, the final orders have been passed on 26.10.2023 against the unauthorized construction, as such, the writ petition can be closed in view of the subsequent developments after filing of the writ petition.
3. WP.No.3434 of 2025 is filed by Mohammad Irfan in the capacity of hereditary Muthavali of Masjid-E-Ayisha Sunna, aggrieved by the final order dated 26.10.2023 passed by the 4<sup>th</sup> respondent.

4. The learned counsel appearing for the petitioner submits that the impugned order dated 26.10.2023 and the speaking order cum notice under Section 636 of APMC Act dated 06.10.2022 are issued in the name of Sri Jalal (Masjid Ayiesha). It is submitted that Mohammad Jalal is the father of the petitioner and he passed away on 17.10.2022. The final orders dated 26.10.2023 are issued in the name of a dead person and as such the said orders are a nullity in the eye of law.
5. The learned counsel appearing for the petitioner submits that the petitioner's father during his lifetime executed a Waqf Deed for a portion of land of plot No.216 in favour of the Waqf. Waqf deed also names the petitioner as the Hereditary Muthavali for managing the affairs of the Masjid.
6. It is submitted that the petitioner had constructed a temporary shed and also informed the 2<sup>nd</sup> respondent about the nature of construction and also informed the 2<sup>nd</sup> respondent that for erecting temporary structures, there is no necessity for obtaining permission.
7. The learned counsel for the petitioner further submits that that there was no occasion for the office of 2<sup>nd</sup> respondent to issue the impugned proceedings on the name of a dead person and it is also submitted that the 2<sup>nd</sup> respondent also cannot enforce the

impugned proceedings without serving the copy to the competent person who is managing the affairs of the Masjid.

8. The 5<sup>th</sup> respondent has filed a counter duly informing that the Municipal authorities passed final orders on 26.10.2023 and that the property devolved on the 5<sup>th</sup> respondent and that no orders could have been passed without hearing the title holder of the property i.e., the 5<sup>th</sup> respondent.
9. The learned counsel appearing for 6<sup>th</sup> respondent submits that the petitioner is a stranger and that he cannot maintain the writ petition. It is submitted that the impugned proceeding were issued on 26.10.2023, however the petitioner has approached this Court and filed the present writ petition on 07.02.2025 after a considerable delay.
10. It is submitted that the petitioner ought to have made Sagar Nagar Masjid-E-Ayisha Association necessary as a party respondent. It is submitted that the property over which the unauthorized place of worship is constructed was purchased in the name of the association. The same could not have been dealt with by the petitioner's father in his individual capacity.
11. It is submitted that the subject property over which the unauthorized place of worship is constructed forms a part of

layout of Visakhapatnam Regional Transport Department Employees Cooperative House Building Society Limited. It is submitted that the members of the said society were allotted plots and that clause 42.10 of the bye-laws of the society mandates the plot owners to use the plots for residential purposes only.

12. It is submitted that one P.Srinivas sold his plot No.26 in favour of Sagar Nagar Masjid-E-Ayiesha Association vide two separate registered sale deeds. The association had purchased the property and the petitioner's father represented the association as its President. It is submitted that the petitioner's father could not have executed a Waqf Deed bequeathing the title of the property purchased on the name of the association in his individual capacity.
13. It is submitted that the notification of the 5<sup>th</sup> respondent dated 19.01.2023 was issued on the name of petitioner's father, by then he was no more. It is submitted that the society bye-laws make it clear that the plots in the layout would have to be utilized for residential use only. It is also submitted that the petitioner has constructed a Mosque without obtaining any permission and is causing inconvenience to the residents of the colony.

14. It is submitted that the petitioner has furnished a copy of the NOC which was allegedly executed by the members of the association vide memo dated 25.02.2025. It is submitted that the No Objection was executed on 30.05.2022, whereas, the Waqf Deed was executed on 21.05.2022 and both the documents were notarized on 30.05.2022. It is submitted that the petitioner has fabricated these documents only to get over the objections raised by the respondent No.6 in the counter.

15. Learned counsel for the 6<sup>th</sup> respondent places reliance on **Prestige Lights Ltd. Vs. State Bank of India**<sup>1</sup>, the Hon'ble Supreme Court held that the party approaching the Court must place all facts before the Court without any reservations, if any suppression of material fact or if the applicant has twisted the facts the writ Court may refuse to entertain the petition and dismiss it without entering into the merits of matter. **K.D.Sharma Vs. Steel Authority of India Limited and others**<sup>2</sup>, the Hon'ble Supreme Court held that the conduct of the party approached the Court in making a false statement or suppression of material fact or attempts to mislead the Court should be dealt seriously. The Hon'ble Supreme Court also observed that if the petitioner

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<sup>1</sup> (2007) 8 SCC 449

<sup>2</sup> (2008) 12 SCC 481

submits distorted facts and misleads the Courts, the Courts can refused to determine the issue on merits and dismiss the case.

16. The learned standing counsel for the 2<sup>nd</sup> respondent has placed on record the written instructions and it is submitted that in pursuance of the final orders passed on 26.10.2023 efforts to demolish the unauthorized structure are initiated and letters were also addressed to police for extending the police protection. However, on account of exigencies, the unauthorized structure could not be demolished.
17. Heard the learned counsel appearing for the petitioner, learned counsel for the respondents 5 and 6 and also the learned standing counsel for the 2<sup>nd</sup> respondent. Perused the material on record.
18. The petitioner is challenging the impugned proceedings dated 26.10.2023. Admittedly, the place of worship was constructed without obtaining any permission from the competent authority. In this regard, the colony residents association also filed a writ petition and this Court passed an interim order on 23.09.2023 directed the 2<sup>nd</sup> respondent to pass final orders within a period of four weeks in pursuance of notice dated 07.05.2022 by granting two weeks time to the addressee to file their reply.

19. The 2<sup>nd</sup> respondent had passed a speaking order cum notice dated 06.10.2022. Thereafter, the final order dated 26.10.2023 is passed. The final orders would indicate that the petitioner has not submitted any reply or any representation in terms of the interim directions passed by this Court on 23.09.2023 in WP.No.4948 of 2023. This Court granted two weeks time for the petitioner to submit a reply to the notice dated 07.05.2022 and thereafter directed the 2<sup>nd</sup> respondent to pass speaking order within a period of four weeks. This Court also made it very clear that if the reply is not filed, the 2<sup>nd</sup> respondent shall pass final orders in accordance with law on expiry of four weeks from 23.09.2023. The impugned proceedings would also refer to non submission of any reply or representation by the petitioner and that the orders are passed as directed by this Court.
20. The petitioner on one hand failed to comply with the directions of this Court in WP.No.4948 of 2023 and failed to submit any reply. The petitioner has also submitted no objection which is allegedly issued by the association in favour of the petitioner's father. It is pertinent to mention that the Affidavit Cum No Objection is executed on 30.05.2022, whereby, the association members have expressed their No Objection and left it open for the petitioner's father to deal with the property individually though it

was purchased in the name of the association. There is force in the contention of the learned counsel for the 6<sup>th</sup> respondent with regard to the generation of document for getting over the objection raised by the 6<sup>th</sup> respondent regarding the competency of the petitioner's father in executing the Waqf Deed.

21. It is interesting to note that the gift deed was executed on 21.05.2022, by then the property stood in the name of Sagar Nagar Masjid – E – Ayiesha Association. No objection to deal with the property devolved on the petitioner's father only on 31.05.2022. The affidavit/no objection and the waqf deed are all notarized on 30.05.2022. These documents are evidently generated for maintaining the writ petition. The petitioner is guilty of submitting fabricated documents and attempting to mislead this Court.

22. The proceedings dated 06.10.2022 referred to in the notice dated 07.05.2022, the notice dated 07.05.2022 was issued under 452(1) and 461 (1) of AP Municipalities and Corporation Act. The speaking order cum notice dated 06.10.2022 would also indicate that the addressee did not submit any reply to the notice dated 07.05.2022. This would go to show that the petitioner was only hoodwinking the authorities and trying to harp on technicalities.

23. That apart it is pertinent to mention that the petitioner's father could not have passed on the title of the property in favour of any third party without having any title. "*Nemo dat quod non habet*". A person cannot transfer a better title or ownership of property than they themselves possess. On the facts of this case, the petitioner's father executed a waqf deed on 21.05.2022 by which date the petitioner's father had no authority, title or competency to execute the said waqf deed.
24. The writ petition ought to be dismissed for the manner in which the petitioner twisted the facts and made efforts to mislead this Court. The petitioner has also not complied with the interim directions dated 23.09.2023 of this Court passed in WP.No.4948 of 2023 and failed to submit any reply or representation to the notice dated 07.05.2022. The petitioner is aware of the notice dated 07.05.2022, however, has concealed the same in the present writ petition. The petitioner also has not filed the copy of the same in the present writ petition, which would amount to concealment and misrepresentation of the facts. On these grounds, the writ petition can be dismissed without adjudication on merits. However, the only technical objection which comes in the way of dismissing the writ petition is that the impugned order dated 26.10.2023 is addressed in the name of a dead person.

25. Accordingly, this Court is of the considered view that the impugned proceedings dated 26.10.2023 would have to be set aside as they are addressed to a person who is no more, however, the findings of the impugned order need not be interfered with. The 2<sup>nd</sup> respondent shall serve a fresh copy of the impugned order on the petitioner within a period of two weeks from the date of receipt of this order and thereafter take all further steps for removal of the unauthorized construction within a week thereafter. The official respondents shall take the assistance of the concerned police to ensure peace in the area is not disturbed.

26. Accordingly, WP.No.3434 of 2025 is disposed off without costs and WP.No.4948 of 2023 is closed without costs.

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

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**JUSTICE HARINATH.N**

Date:09.10.2025  
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**THE HONOURABLE SRI JUSTICE HARINATH.N**

**WRIT PETITION Nos.4948 of 2023 and 3434 of 2025**

Date:09.10.2025

KGM