

APHC010716102013



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

[3457]

TUESDAY, THE 28th DAY OF JULY 2026

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

REVIEW PETITION No.2 of 2026

in

WRIT PETITION No.11254of 2013

Between:

Jayendra Nagar Residents Welfare Association, (Regd.No.491/2015) at
Dr.No.70-14/14/1, Jayendra Nagar, Kakinada- 533 003, East Godavari
District, Rep.by its President.

...Review Petitioner/Respondent No.4

AND

1. Gubbala Satyanarayana Murthy, S/o.(late) Narayana Murthy, aged about 53 years, Dr.No.70-19-96, Godarigunta, Kakinada-3, East Godavari District.
2. Mummana Surya Rao, S/o. (late) Narayana Murthy, aged about 70 yeas, Dr.No.1-93-10, Sector 5, MVP Colony, Visakhapatnam-530017.

...Respondent Nos.1 and 2/Writ petitioners

3. Kakinada Municipal Corporation, Kakinada, East Godavari District, Rep.by its Commissioner
4. The Building Inspector, Division No-III, Kakinada Municipal Corporation, Kakinada, East Godavari District, Andhra Pradesh.
5. The State of Andhra Pradesh, Rep.by its Principal Secretary, Department of Municipal Administratoin and Urban Development, Padmini Enclave, 5th Lane, 4/7, Mahatma Gandhi Inner Ring Road, Annapurna Nagar, Guntur, Andhra Pradesh-522 034

...Respondent Nos.3 to 5/Respondent Nos.1 to 3

IA NO: 2 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 May be pleased to set-aside the order dated 08.01.2026 in W.P. No.11254 of 2013 and consequently allow the Review Petition and pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case

Counsel for the Review Petitioner

: Sri. Venkat Challa

Counsel for the respondent Nos.1 and 2

: Sri Meka Rahul Chowdary

Counsel for the respondent Nos.3 and 4

: Sri.M.Krishna Rao, learned
Standing Counsle for the
Municipality

Counsel for the respondent No.5

: None appeared

REVIEW PETITION No.2 of 2026
in
WRIT PETITION No.13428 of 2015

Between:

Jayendra Nagar Residents Welfare Association, (Regd.No.491/2015) at Dr.No.70-14/14/1, Jayendra Nagar, Kakinada- 533 003, East Godavari District, Rep.by its President.

...Review Petitioner/Respondent No.4

AND

1. Vasamsetty Apparao, S/o. Suryanarayana, aged about 61 years, Dr.No.3-17-44, Opposite Vinayaka Temple, Godavarigunta, Kakinada Urban Mandal, East Godavari District.
2. Vasamsetty Mahalakshmi, W/o.Apparao, aged about 50 years, Dr.No.3-17-44, Opposite Vinayaka Temple, Godavarigunta, Kakinada Urban Mandal, East Godavari District.
3. Duvvuri Nageswara Rao, S/o.Venkata Subbarao, Rep.by its Special Power of Attorney Holder, Gubbala Satyanarayana Murthy, S/o.Narayana Murthy, aged about 54 years, Dr.No.70-19-96, Jayaprakash Nagar Colony, Kakinada Urban Mandal, East Godavari District.
4. Mummana Surya Rao, S/o.(late) Guruvulu, aged about 70 years, Residing at Dr.No.1-93-10, Sector 5, MVP Colony, Visakhapatnam-530 017

...Respondent Nos.1 to 4/Writ petitioners

5. Kakinada Municipal Corporation, Kakinada, East Godavari District, Rep.by its Commissioner.
6. The Building Inspector, Division No-III, Kakinada Municipal Corporation, Kakinada, East Godavari District, Andhra Pradesh.
7. The State of Andhra Pradesh, Rep.by its Principal Secretary, Department of Municipal Administration and Urban Development, Padmini Enclave, 5th Lane, 4/7, Mahatma Gandhi Inner Ring Road, Annapurna Nagar, Guntur, Andhra Pradesh-522 034

...Respondent Nos.5 to 7/Respondent Nos.1 to 3

IA NO: 2 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 May be pleased to set-aside the order dated 08.01.2026 in W.P. No. 13428 of 2015 and consequently allow the Review Petition and pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Counsel for the Review Petitioner : Sri. Venkat Challa
Counsel for the respondent Nos.1to 4 : Sri Meka Rahul Chowdary
Counsel for the respondent Nos.5 and 6 : Sri.M.Krishna Rao, learned
Standing Counsel for the Municipality
Counsel for the respondent No.7 : None appeared

The Court made the following Common Order :

THE HONOURABLE SRI JUSTICE HARINATH.N
REVIEW PETITION.No.2 of 2026 IN WP.No.11254 of 2013
REVIEW PETITION.No.2 of 2026 IN WP.No.13428 of 2015

COMMON ORDER:

1. This review petitions are filed by the respondent No.4 in W.P. Nos. 11254 of 2013 and 13428 of 2015 and, praying this Court to review and set aside the common order dated 08.01.2026 passed in W.P. No. 11254 of 2013 and 13428 of 2015.
2. The learned counsel appearing for the review petitioner submits that the order passed by this Court suffers from an error apparent on the face of the record. It is also submitted that fraud was played on this Court and that the common order dated 08.01.2026 deserves to be reviewed and set aside.
3. The circumstances that occasioned the consideration of the review petition would have to be detailed for a better understanding of this issue on hand.
4. WP.No.11254 of 2013 is filed seeking a direction, declaring the action of the respondents in trying to construct a compound wall over an extent of 700 square yards of land belonging to the petitioner situated in Survey No. 127/4 (Old 127), Ward No. 30, Block No. 70, Ramanaiahpetta, Kakinada Urban Mandal, East Godavari District as illegal, arbitrary, unconstitutional and consequently a direction to the respondents not to make any construction over the said property.

5. WP.No.13428 of 2015 is filed seeking to declare the action of respondents in interfering with possession and development of land of the petitioners in LP No. 230/62 in Ward No. 30, Block No. 70, Pattan No.55, Ramanaiahpetta in Old Survey No. 127 and present R. S. No. 127/4 under Document No. 1365/2009, 1364/2009 and 1362/2009 to an extent of 750 square yards, 750 square yards and 220 square yards respectively and a consequential direction to the respondents not to interfere with the development activities is sought for.
6. In both the writ petitions, Jayendra Nagar Residents' Welfare Association filed petitions seeking to implead the said association as a party respondent to the writ petitions. It is the specific case of the impleaded respondent that the open areas were gifted to the municipality in pursuance of the layout and were specially earmarked for public purposes and that the compound walls were constructed over 3 such open spaces, and when the construction of the compound wall on the fourth open area was undertaken, the Writ Petitioner approached this court claiming title over the said property. Considering the claim of the Jayandranagar Residents Welfare Association, the implead petitions were allowed, and counters were filed by the municipality and the impleaded respondent.
7. The Kakinada Municipal Corporation has filed counters in both the writ petitions. It is the specific stand of the corporation that the subject property forms part and parcel of an open space of a layout, and that it

is the bounden duty and responsibility of the municipal corporation to protect the open spaces earmarked for public purposes in the layout. It is also the specific stand of the Jayendranagar Residents Welfare Association that the property covered under the open spaces forming the subject of the Writ Petitions was gifted by the Welfare Association when the layout was formed. It is also their stand that these properties vest in the Municipal Corporation for all purposes.

8. The Writ Petitions were taken up for hearing on 08.01.2026 and Learned Senior Counsel K.Srinivasa Murthy appeared for Meka Rahul Chowdary for the petitioners, Standing Counsel Sri. M.Krishna Rao appeared for the Kakinada Municipal Corporation and Advocate Sri. N.Siva Reddy appeared for Jayandranagar Residents Welfare Association. The arguments of the Learned Senior Counsel were heard, and the matter was posted after the lunch session to hear counsel appearing for the respondents. The Learned Senior Counsel appearing for the petitioners drew the court's attention to the affidavit filed by the Commissioner, Kakinada Municipal Corporation, dated 06.01.2026. In the said affidavit, the respondent Municipal Corporation has taken a completely opposite stand to that taken in the erstwhile counter filed on 08.01.2015.
9. The learned counsel for Jayandranagar Residents Welfare Association also submitted that they do not have any claim over the subject property. It was also submitted that the writ petitions can be disposed of

by recording the Municipal Corporation's stand. Considering these submissions, both the writ petitions were disposed of by a common order dated 08.01.2026.

10. Aggrieved by the common order dated 08.01.2026, WA.Nos. 270 and 271 of 2026 were filed by Jayandranagar Residents Welfare Association. They were disposed of by an order dated 13.03.2026, whereby the Hon'ble Division Bench observed that no writ appeal would apply against an order of consent; however, it was left open for the appellants to file a review before this Court. Accordingly, the present review petition is considered by this Court.

11. The learned counsel Mr.Venkat Challa appeared for the review petitioner and submits that the counsel who appeared for the review petitioner in the writ petitions had conceded the prayer of the petitioners without any oral or written instructions from the review petitioner. It is submitted that the review petitioners have a strong prima facie case, and that the orders passed by this Court were based on the submissions of the writ petitioners, the affidavit of the Municipal Corporation dated 06.01.2026, and the erstwhile Counsel for the review petitioners conceding the writ petitioners' claim.

12. The learned Senior Counsel appearing for the writ petitioners submits that there is no error in the order and no material irregularity warranting review of the order passed on 08.01.2026. It is submitted that the review petitioners cannot be permitted to deny and disown the

submission made by their learned counsel and seek rehearing of the writ petition.

- 13.** It is submitted that the respondent No.1 had categorically stated in an affidavit that they are not interfering with the subject property, as claimed by the writ petitioners, and that the order has become a consent order. It is submitted that the review petitioners cannot seek review of a consent order.
- 14.** The review petitioners have filed WA.Nos.270 and 271 of 2026, which were disposed of by an order dated 13.03.2026. The Hon'ble Division Bench has considered the submissions of the review petitioner and observed that no writ appeal would be maintainable against an order of consent. It is also submitted that the Hon'ble Division Bench refused to interfere with the order passed by this Court; however, it left it open for the appellants to file a review before this Court. It is submitted that the review petitioner cannot take two different stands before the same Court.
- 15.** In reply, the learned counsel appearing for the review petitioners submits that the subject property is a valuable property which is an open space earmarked for the public purpose and that its nature cannot be changed by the creation of any documents. It is also submitted that the review petitioner had never instructed their then counsel, who represented before this Court in the writ petition, to concede to the writ petitioner's prayer. It is submitted that the counsel who earlier appeared

for the review petitioners appears to have been influenced by the writ petitioner and the other advocates who appeared for the official respondents.

- 16.** It is submitted that, for reasons better known to the counsel, the admissions were made before this Court, which led to the passing of the order under review. It is also submitted that the market value of the property is close to Rupees Fifteen Crores in the open market, and the prevailing rate per square yard is about Rs. 75,000/-.
- 17.** It is submitted that the petitioners, in connivance with the official respondents, have hatched a plan to grab the property and mislead this Court into passing the order dated 08.01.2026. It is also submitted that the connivance of the counsel appearing for the respondents is evident by the manner in which the writ petitioners have changed their counsel, and the earlier counsel who appeared for the writ petitioner subsequently appeared before this Court for the respondent No.3 in W.P.No.11254 of 2013.
- 18.** It is submitted that the conduct of the counsel appearing for the writ petitioners and the advocates appearing for the official respondents is evidently misleading. That fraud was played on this Court in securing the order dated 08.01.2026. It is also pointed out that the Counsel who appeared for the Writ Petitioner before this Court, initially, has subsequently appeared for the State in the capacity of Special

Government Pleader, attached to the learned Advocate General's Office.

- 19.** Heard the learned counsel appearing for the parties to the review petition. Perused the material on record.
- 20.** The scope and ambit of entertaining a review application would require this Court to consider whether an error apparent on the face of the record has occurred in the order dated 08.01.2026 and whether the grounds taken for review would withstand the scrutiny under the limited scope for reviewing and setting aside the order.
- 21.** On the facts of this case, the common order dated 08.01.2026 passed by this Court was based completely on the submissions of the learned counsel appearing for the parties to the writ petitions. The order passed is evidently not on the merits of the case.
- 22.** The order dated 08.01.2026 was passed at the stage when the Learned Senior Counsel appearing for the Writ Petitioners had concluded the arguments and submissions in the Writ Petitions. The matter was listed for hearing the respondents' counsel in the post-lunch session. The claim of the writ petitioners is conceded by the counsel for the respondents. The affidavit filed on behalf of the Kakinada Municipal Corporation dated 06.01.2026 is diametrically opposite to its stand in the counter affidavit dated 08.12.2015. There is no explanation as to why the Kakinada Municipal Corporation has taken two different stands. This Court directed the Commissioner of Kakinada Municipal

Corporation to appear virtually before this Court on 30.06.2026. This Court enquired with the Commissioner as to who instructed him to file the affidavit dated 06.01.2026. He reported ignorance and informed the Court that he had recently joined and that he was not aware of the history of the case and the earlier counter and its contents. He also submitted that some unauthorised constructions were undertaken on the subject lands and that, on his intervention, they were stopped. Photographs showing some construction activity were passed on by the standing counsel for the Municipal Corporation.

23. These instances referred to supra amply lead to suspicion of a well-planned fraud on this court.

24. The collusion and fraud are apparently evident. The Hon'ble Supreme Court, in the matter of **A.V. Papayya Sastry and Others Vs. Government of Andhra Pradesh and others**¹, held as follows, at paragraphs 21 to 26

21. *Now, it is well settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed;*

"Fraud avoids all judicial acts, ecclesiastical or temporal".

22. *It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the Court, Tribunal or Authority is a nullity and non est in the eye of law. Such a judgment, decree or order by the first Court or by the final Court has to be treated as nullity by every Court, superior or inferior. It can be challenged in any Court, at any time, in appeal, revision, writ or even in collateral proceedings.*

¹ 2007(4)SCC 221

23. *In the leading case of Lazarus Estates Ltd. v. Beasley, (1956) 1 All ER 341 : (1956) 1 QB 702 : (1956) 2 WLR 502, Lord Denning observed :*

"No judgment of a court, no order of a Minister, can be allowed to stand, if it has been obtained by fraud.

24. *In Duchess of Kingstone, Smith's Leading Cases, 13th Edn., p.644, explaining the nature of fraud, de Grey, C.J. stated that though a judgment would be res judicata and not impeachable from within, it might be impeachable from without. In other words, though it is not permissible to show that the court was 'mistaken', it might be shown that it was 'misled'. There is an essential distinction between mistake and trickery. The clear implication of the distinction is that an action to set aside a judgment cannot be brought on the ground that it has been decided wrongly, namely, that on the merits, the decision was one which should not have been rendered, but it can be set aside, if the court was imposed upon or tricked into giving the judgment.*

25. *It has been said; Fraud and justice never dwell together (fraus et jus nunquam cohabitant); or fraud and deceit ought to benefit none (fraus et dolus nemini patrocinari debent).*

26. *Fraud may be defined as an act of deliberate deception with the design of securing some unfair or undeserved benefit by taking undue advantage of another. In fraud one gains at the loss of another. Even most solemn proceedings stand vitiated if they are actuated by fraud. Fraud is thus an extrinsic collateral act which vitiates all judicial acts, whether in rem or in personam. The principle of 'finality of litigation' cannot be stretched to the extent of an absurdity that it can be utilized as an engine of oppression by dishonest and fraudulent litigants.*

25. The Hon'ble Supreme Court in the matter of **Bilkis Yakub Rasool V/s**

Union Of India and others ² held that fraud vitiates everything. The

order dated 08.01.2026 has been obtained by playing fraud on this

² 2024(5) SCC 481

Court. In light of these considerations, the review petitions are allowed, and the order dated 08.01.2026 is hereby recalled.

26. The counsel appearing for the parties have submitted their arguments on merits in the writ petition as well, after submitting the arguments in the review petition on 30.06.2026. However, as the review is ordered, an opportunity of hearing in the writ petitions is to be extended to the parties.

27. Before parting, this Court expresses its displeasure at the way the Advocates who appeared in this matter for the writ petitioners and the respondents, leading to the passing of the order under review, have, in univocal terms, played fraud on this Court. The trust and faith reposed in the advocates as officers of the court is immense; the trust runs deeper than mere professional courtesy. It's the bounden duty of the advocates to assist the court in the justice delivery system. Instances of collusion, dual representation or fraud on the court can disproportionately erode this trust. As such, this Court deems it appropriate to view this incident seriously.

28. This Court has verified the docket orders and the vakalatnama filed and the counsel who appeared for the parties in the writ petitions, as the sequence of events warranted such an exercise.

➤ Mrs.S.Pranathi, Advocate filed Vakalat for the writ petitioners on 22.09.2021 and continued to be on vakalatnama till 19.11.2025.

- On 19.11.2025 husband of Mrs Pranathi, Sri. Meka Rahul Chowdary, Advocate filed the No-Objection Vakalat after no objection was given by Mrs.S.Pranathi.
- Curiously, Mrs.S.Pranathi accepted the additional material papers filed by the writ petitioners on 19.11.2025 on behalf of the State of Andhra Pradesh (respondent No.3).
- On 15.10.2025, when the matter was listed before this Court, a representation was made that Mrs S.Pranathi has been appointed as a Special Government Pleader and that a fresh vakalatnama shall be filed.
- On 06.11.2025, further time was sought for filing fresh vakalat on behalf of the writ petitioners.
- Sri. Meka Rahul Chowdary, Advocate, filed his vakalatnama for the writ petitioners on 19.11.2025 and filed additional material papers by serving a copy to the Special Government Pleader.
- On 08.01.2026, learned Senior Counsel Sri.K.Srinivasa Murthy appeared for the writ petitioners, assisted by Sri.Meka Rahul Chowdary; Standing Counsel for Kakinada Municipal Corporation, Sri.M.Krishna Rao, had appeared; Sri.N.Siva Reddy, Advocate, appeared for Jayandranagar Residents Welfare Association and Mrs S.Pranathi appeared for the State.

29.A suspicion arises upon verifying the above turn of events in the matter, and the manner in which the counsel appearing for the parties have

conducted themselves raises a serious question of professional misconduct and a deliberate attempt to commit fraud on this Court. The Counsel appearing for the State and its instrumentalities have failed in discharging their fiduciary duty.

30.The conflict of interest is a concern to be enquired into. The risk of privileged information leaking across the marital relationship, even unintentionally, subsists and exists. The reasons for such conduct and the motive for playing fraud on the Court would require inquiry by a Senior Police Officer. As the property worth several crores of rupees belonging to the Kakinada Municipal Corporation was planned to be knocked off by playing fraud on this Court.

31.This Court is not expressing any opinion on the involvement of the counsel and others in playing this fraud. However, the same requires a thorough inquiry by an investigating agency which has expertise in handling such cases.

32.The Director General, Anti Corruption Bureau, Vijayawada, Andhra Pradesh is hereby directed to entrust the inquiry to an officer not below the rank of Inspector General, Anti-Corruption Bureau. The enquiring officer shall also take into consideration any additional information received during the course of inquiry relating to such issues. The Officer who is entrusted with the inquiry shall have to submit a report to this Court preferably within a period of twelve (12) weeks from the date of receipt of this Order. The Registrar (Judicial) is hereby directed to

forward a copy of this Order to the Director General, Anti Corruption Bureau, Vijayawada, Andhra Pradesh along with a copy of the entire case files including the counters and Memo(s) and other documents.

33. Accordingly, the review petitions are allowed. There shall be no order as to costs.

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

28.07.2026
KGM

JUSTICE HARINATH.N

THE HONOURABLE SRI JUSTICE HARINATH.N

REVIEW PETITION.No.2 of 2026 IN WP.No.13428 of 2015

REVIEW PETITION.No.2 of 2026 IN WP.No.11254 of 2013

Dated 28.07.2026

KGM