

**IN THE HIGH COURT OF JUDICATURE FOR THE STATE OF
TELANGANA
HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

WRIT PETITION No. 31719 OF 2022

03.09.2026

Between:

Smt. Akkineni Dharani

..... Petitioner

And

Secunderabad Cantonment Board & others

..... Respondents

O R D E R:

The writ petition is filed to cancel the building permission dated 27.05.1996. The writ petition is filed with the averments that, aggrieved by the inaction of the 1st respondent in cancelling the building permission vide board resolution No. 2 (1-35), dated: 27.05.1996 and the property tax identification number in favour of respondents No. 2 and 3 with respect to Plot No. 4 and 5 admeasuring 907 sq. yards in Sy. No. 157/8 of Gunrock Enclave Co-Operative Housing Society at Thokatta Village, Secunderabad Cantonment, Hyderabad District, as arbitrary and illegal.

2. It is the specific averment of the petitioner that Respondents 2 and 3 without having any right, title and

interest in plot Nos. 4 and 5, fraudulently obtained building permission for plots No. 1 to 5 by using forged signatures and therefore, prayer is sought to direct Respondent No. 1 to cancel the building permission in respect of Plot Nos. 4 and 5 and sought for a new building permission in favour of petitioner as per procedure prescribed in plots No. 4 and 5. It is the case of the petitioner that plot No. 4 admeasuring 462 sq. yards was acquired by her from her father A. Naga Murali Krishna through a registered release deed, dated 24.12.2020, which he acquired after the death of his wife Smt. Usha Murthy. It is also her case that she acquired property right over plot No. 5 admeasuring 445 sq. yards from grandmother Smt. N. Savitri through a registered settlement deed, dated 24.12.2020 and that both plots are adjacent to each other in Survey No. 157/8 at Gunrock Co-Operative Housing Society.

2.1. It is the case of petitioner that late Smt. Usha Murthy purchased plot No. 4 through sale deed dated 15.06.1982 and her grandmother Smt. N. Savitri purchased plot No. 5 on 19.05.1982 and they were in possession and enjoyment and that after petitioner acquired the property which she is in possession and enjoyment and that plots bearing No. 1 to 3 belong to the 2nd respondent and his parents and that

Respondents 2 and 3 are running their offices in a building constructed in Plot No. 1 to 3 and they are using plot No. 4 and 5 to store the material during construction of their office and later on, started using the same as parking and as they are closely related they never objected the use and enjoyment of the plots for parking and that after she acquired the property rights, she enquired with respondent No. 1 for mutation of property in her name and to her surprise, she came to know that the 1st respondent officials granted building permission to plot No. 1 to 5 in favour of Respondents 2 and 3 and a common PTI number was allotted and Respondents 2 and 3 along with their family members took building permission from Respondent No. 1 and constructed the building over plots No. 1 to 3 only, but permission was obtained for plots No. 4 and 5 also and that building permission was obtained with the forged signatures with the predecessors in title and that fraudulent game was played by providing residential addresses of 1 and 3 for all communications and that entire fraud was carried out when her mother was sick; therefore, she lodged a complaint with police Kharkana on 09.07.2021 and the same was registered on FIR No. 113 of 2021 for the offences under Section 420, 406, 46 and 471 IPC and the police seized the concerned documents from

the 1st respondent and sent to forensic lab for examination and the police have received a report from handwriting expert stating that signatures of grandmother and mother of petitioner were forged and the police filed charge sheet and the same is numbered as CC No. 995 of 2022 and the same is pending and several applications were made to the 1st respondent between 22.02.2022 and 15.05.2022 citing forgery issue and requested to cancel the building permission as well as PTI number pertaining to her plots No. 4 and 5; despite several requests, the 1st respondent grossly failed to take any action on her representation and that she also paid fees for grant of new building permission on plots No. 4 and 5 and that her building permission was returned with the reasons that there is crime registered with police authorities and that respondents No. 2 and 3 without right, title over the plots obtained building permission by committing forgery of the signatures of her predecessors in title and that building permission was granted without verifying the documents and title deeds and that building permission granted on plot No. 4 and 5 is null and void and the same is liable to be cancelled. Therefore, alleged action of the 1st respondent is not cancelling the building permission in

favour of Respondents 2 and 3 and returning her application for building permission as illegal and arbitrary.

3. The 1st respondent filed detailed counter. In Para No. 4, they stated that the 1st respondent received the Application for building plan on plots No. 1 to 5 of Gunrock Enclave and as per the plan submitted the plots belong to Sri N. Ranga Rao, Smt. N. Saraswathi, Sri N. V. Naidu, Smt. Usha Murthy and Smt. N. Savitri and the total extent is 2321 Sq. yards and the plan was submitted by the respective owners by affixing their signature on building plan and plan was submitted for construction of ground, first and second floors; after scrutiny and verification of the site, the 1st respondent accorded permission for ground, first and second floors on 27.05.1996 and the same was released to the applicants; in Para No. 5, they stated that construction of building was completed and when an Application was submitted for mutation for payment of property tax, the same was mutated in their names. It is the specific stand of respondents, sanction of building permission is a municipal sanction accorded by the 1st respondent and the dispute pertaining to title among the plot owners, the appropriate forum to decide the dispute would be a competent civil court having jurisdiction. It is also their specific

stand in Para No. 6 that permission was granted 24 years back and at this distance of time, on the ground of forgery of signatures, seeking cancellation of building permission by way of representation cannot be acted upon and that too, when the complaint of petitioner for the offence of forgery etc., is pending consideration in CC No. 995 of 2022; when the same issue is pending before the learned Magistrate, the same exercise cannot be done by the 1st respondent and at any rate, the 1st respondent will abide by the order passed by the learned Magistrate. It is also stated that the Application submitted for sanction plan was returned by the 1st respondent on 31.05.2022 stating that criminal case is pending and the subject property documents are in the custody of police. It is also pointed out that there is a recital in the documents relied by petitioner stating that settler/releaser shall undertake to defend the title of the settle/release in case any defect is found or any rival claim is made in respect of schedule property. In view of the recital, petitioner has to initiate the legal proceedings to clear the cloud over the title and also stated that the predecessors-in-title of petitioner never objected grant of permission during their lifetime.

4. The unofficial respondents filed their respective counters. A perusal of their counters would disclose that late Smt. Usha Murthy and Late Smt. N. Savitri have signed for grant of permission and that by the date of so-called settlement deed and release deed, they have no right to transfer. It is stated that Smt. Usha Murthy and Smt. Savithri received entire sale consideration through cheques dated 08.05.1990 and 21.01.1991 and also through cheque dated 18.01.1991. A perusal of the lengthy counter it is explained that late Smt. Usha Murthy is the brother's daughter of the 2nd respondent and Smt. Savithri is the brother's wife of the 2nd respondent and wife's sister of the 2nd respondent. Therefore, all of them are closely related and that they signed the Application for grant of building permission. It is further stated, they have purposefully filed a criminal case in view of the family disputes which arose in 2012-13 and that they are trying to convert the family litigation into criminal one.

5. For the counters filed by the 1st respondent rejoinder is filed and upon the death of the 2nd respondent, Respondents No. 4 and 5 came on record. Respondents no. 4 and 5 filed their respective counters but on similar lines.

6. Heard Sri Rajasripathi Rao, learned Senior Counsel assisted by Sri Srinivasa Rao Pachwa, learned counsel for petitioner, Sri K.R. Koteswara Rao, learned Standing Counsel for Respondent No.1, Sri B. Raveendra Babu, learned counsel for Respondent No.3, Sri K.V. Bhanu Prasad, learned Senior Counsel assisted by Sri Rohit Reddy Samula, learned counsel for Respondent No.4 and Sri C. Ramachandra Raju, learned counsel for Respondent No.5.

7. From a perusal of the pleadings, the Point for consideration is Whether the building permission granted by the 1st respondent through board resolution No. 2 (1-35), dated 27.05.1996 in favour of Respondents 2 and 3 as well as PTI No. PTO3H38019087 in respect of plot Nos. 4 and 5 for an extent of 907 square yards in Survey No. 157/8 of Gunrock Co-Operative Housing Society can be cancelled on the ground of fraud and forgery?

8. Surprisingly, there is no whisper or mention in the prayer stating that they made a representation on such and such date for cancellation of building permission and therefore the inaction on the part of the 1st respondent is illegal and bad. Straight away, petitioner questioned the inaction in cancelling the building permission without mentioning the details of efforts

made by her for cancelling the building permission. The 4th respondent specifically raised this issue in her counter and drew the attention of this Court on that aspect. That apart, as if fraud and forgery is already established, petitioner is straight away asking for cancellation of building permission. Looking at the prayer, this court is of the view that same does not disclose a valid cause of action.

9. Allegation of fraud and forgery: The main contention of petitioner is signatures of predecessors-in-title of petitioner were forged for obtaining building permission. Building permission was granted 26 years prior to filing of Writ Petition. Curiously, the predecessors-in-title of petitioner never made any complaint nor chose to question the building permission on the ground of fraud and forgery. It is the petitioner who claims to have acquired title to the property on 24.12.2020 filed this Writ Petition on the ground of fraud and forgery. In this case, the 4th respondent brought to the notice of this Court an important averment made by petitioner in Para No. 8 of the writ affidavit which reads as under:

“ I submit that on enquiry, I came to know that respondents No. 2 and 3 along with their family members took building permission from respondent No. 1 for construction of building vide board resolution No. 2 (1-35), dated: 27.05.1996”.

Therefore, even from her own admission, Respondents No. 2 and 3 along with family members took building permission. Late Smt. Usha Murthy is the daughter of the brother of the 2nd respondent and Smt. Savitri Murthy is the wife's sister of the 2nd respondent and also brother's wife. Definitely, all of them are family members. In that view of the matter, this Court is unable to countenance the allegation that building permission was obtained by playing fraud and forgery. Further, the 4th respondent also filed memo on 29.10.2025 along with a plaint in O.S. No. 105 of 1999. The said suit was filed by the 2nd respondent and Smt. N. Saraswathi and Smt. N. Savitri is the one of the predecessors-in-title of petitioner. She along with two others filed suit against the 1st respondent Cantonment Board. Taking into consideration the admission in Para No. 8 of the Writ Petition and also the plaint in O.S. No. 105 of 1999 on the file of the III Additional Senior Civil Judge at Secunderabad, this Court is of the *prima facie* view that the allegation of fraud and forgery is not made out. Therefore, the decision relied upon by petitioner in **Ranbeer Bose v. Anita Das**¹ does not apply to the facts of this case.

¹ 2024 (13) SSC 284

10. During the course of arguments, learned Senior Counsel appearing for petitioner vehemently emphasized on the existence of 6' feet service lane in the sanctioned plan and tried to convince this Court that there is violation, as there are encroachments. There is no pleading to that affect in the writ petition and the building permission was attacked on the ground of fraud and forgery. Deviating from the stand in the Writ Petition and taking a new stand during the arguments with regard to 6' feet lane is not permissible. A new aspect which is not pleaded cannot be entertained and building permission cannot be cancelled on that ground that too, after 26 years.

11. The power available for the Cantonment Board under Section 335 for cancellation / suspension of license etc., normally would be available immediately after grant of permission or after a reasonable period, but not at this distance of 30 years after grant of permission. It is the settled law, the power available with the authority should be exercised in a reasonable time. Therefore, this Court is conscious of the settled legal position. In that view of the matter, though a prayer is made to direct the 1st respondent to hold an enquiry on the ground of fraud and misrepresentation, this Court is not inclined to grant the said relief in view of the position explained

above. That apart, when the enquiry on the same issue is pending before the learned Magistrate in CC No. 995 of 2022 on the file of the XI Additional Chief Metropolitan Magistrate, Hyderabad, giving a direction to hold an enquiry would be amounting to allowing a parallel enquiry which is not permitted in law. Therefore, this Court does not find any merit in the Writ Petition and accordingly, the same is liable to be dismissed.

12. The Writ Petition is dismissed. However, it is open to petitioner to take recourse to the action, which may be permissible in law. No costs.

13. Consequently, the miscellaneous Applications, if any shall stand closed.

NAGESH BHEEMAPAKA, J

03nd September 2026

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