

**THE HON'BLE SRI JUSTICE P.NAVEEN RAO**

**WRIT PETITION NO.28023 of 2015**

**DATED : 01.09.2015**

Between :

Bojja Kishan Raj S/o.Kanaka Raj,  
Aged 41 yrs, Occu : Business, R/o.H.No.1-8-578,  
Balasamudram, Hanamkonda, Warangal District & another.

.. Petitioners

and

The State of Telangana,  
Rep., by its Principal Secretary,  
Municipal Administration,  
Secretariat, Hyderabad & others.

.. Respondents

This court made the following :

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**ORDER :**

The petitioners claim to be the owners and in possession of 300 Square yards each of open plot in Sy.No.700, Hanamkonda Revenue Village. In order to protect the property, the petitioners have raised compound wall and also constructed pillars around the compound wall. On the allegation made by some Committee the impugned notice is issued. The petitioners were served with notice dated 30.07.2015 alleging unauthorized construction of 26 columns upto 5 feet height without taking prior permission from the office and the sites are falling under 133 KV High tension line. On consideration of the explanation submitted by the petitioners further notice was issued under Section 452 (2) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the GHMC Act') on 13.08.2015, rejecting the stand taken by the petitioners and holding that the construction of pillars are unauthorized and reiterated that it is falling under 133 KV High tension line. Challenging the said notice, this writ petition is filed.

2. When the matter is taken up for hearing, learned counsel for the petitioners fairly submits that the petitioners have not applied for permission from the respondent-Corporation before undertaking construction.

According to the petitioners, there is no such requirement for obtaining prior permission to undertake construction of a compound wall since the compound wall is raised to protect the property of the individual. Learned counsel also submits that a false complaint is generated by some Association and at their instance this action is initiated and such initiation of action at the instance of third party is illegal. He further submits that there is a civil dispute between the petitioners and their rivals. The competent court has granted an order of injunction against the defendant therein. The defendant in the said suit did not come into picture and at his instance only a false complaint is made against the petitioners.

3. Learned Standing counsel submits that admittedly, the petitioners have no building permission. In accordance with the definition provided under Section 2 (3) of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the GHMC Act'), the building includes fencing also. Therefore, even for construction of fencing under Section 428 r/w.433 of the GHMC Act, permission has to be applied before undertaking construction of a compound wall also.

4. As seen from the definition given in Section 2 (3) of the GHMC Act, building includes fencing. Thus, a person who wants to construct fencing to his property, must apply for building permission under Section 428 r/w.433 of the GHMC Act. Admittedly, no such permission was obtained by the petitioners before undertaking construction. Therefore, I do not see any illegality and irregularity in the action initiated by the respondent-Corporation. As on today the construction made by the petitioners is illegal and therefore, liable to be proceeded against the petitioners under the GHMC Act. At this stage learned counsel for the petitioners submit that the petitioners would be advised to file an application for grant of building permission and the same may be processed.

5. Having regard to the said submission, the writ petition is disposed of granting liberty to the petitioners, to submit applications to the respondent-Corporation for grant of building permission (to construct compound wall) around the properties claimed to be owned by them within a period of one week from the date of receipt of copy of this order. As and when such applications are filed the same shall be considered and appropriate orders be passed within a period of two weeks thereafter. Till the orders are passed the parties are directed to maintain status quo obtaining as on today. In case if the building permission is granted after verifying the title and other aspects, it is open to the respondent-Corporation to levy penalty on the petitioners for undertaking constructions already made without prior permission. If permission is not granted, it is open for the respondent-Corporation to proceed in accordance with the law against the petitioners. There shall be no order as to costs.

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

**P.NAVEEN RAO,J**

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1<sup>st</sup> September, 2015.  
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