

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No. 36950 OF 2014

15-06-2015

Between:

Al-Hashmi Wakf Properties Protection Cell,
Hyderabad.

... Petitioner

And

The State of Telangana, rep., by its Principal Secretary,
Minority and Social Welfare Department,
Hyderabad and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

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WRIT PETITION No. 36950 OF 2014

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the parties.

The petitioner in the instant writ petition seeks the following prayer:

“For the reasons stated in the accompanying affidavit, this Hon'ble Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the action of the respondents No. 2 and 3 in not taking any action against the illegal constructions which is being made by the respondents No. 4 to 7 in open place left for public purpose i.e. for construction of a mosque adjacent to the plots Nos. 385 to 389 and giving numbers to the said open place as plot Nos. 385/1, 385/2, 385/3 and 385/3 part, in a layout formed in Sy. Nos. 320/1/A, 320/1/AA, 320/2, 324 and 326/1, 2, situated at Shaikpet Village, Shaikpet Mandal, Hyderabad, and named it as Osmania University Employees Co-operative Housing Society Limited, Shaikpet Village, Ward No.8, Block No.1, considering the complaint filed by the petitioner, dated 26.11.2014, and the letter addressed by the Hyderabad Metropolitan Development Authority, dated 7.1.2013, is nothing but arbitrary, illegal, null and void and violative of the provisions of the Greater Hyderabad Municipal Corporation Act and also violative of Articles 14, 19 and 21 of the Constitution of India. Consequently, direct the respondents No. 2 and 3 to take necessary action and remove the illegal constructions of the respondents No. 4 to 7 in the open place left for mosque, giving to the said open place as plot Nos. 385/1, 385/2, 385/3 and 385/3 part, adjacent to plot Nos. 385 to 389 in the layout formed in Sy. Nos. 320/1/A, 320/1/AA, 320/2, 324 and 326/1, 2, situated at Shaikpet Village, Shaikpet Mandal, Hyderabad, and named it as Osmania University Employees Co-operative House in Society Limited, Shaikpet Village, Ward No.8, Block No.1, considering the complaint filed by the petitioner, dated 26.11.2014, and the letter addressed by the Hyderabad Metropolitan Development Authority, dated 7.1.2013, and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

The Corporation has filed a counter affidavit denying the allegation that land of Mosque, namely, plot Nos. 385/1, 385/2, 385/3 and 385/3 part has been sold to respondent Nos.4 to 7 by Osmania University Employees Cooperative Housing Society Limited. They further state that open area to the extent of 2266.6 square yards as mentioned in A.P. Gazette No.26-C Part II dated 01.07.1982 is still available and it belongs to the Mosque and that has not been sold to anyone. The petitioner has filed detailed reply to the counter, once again demonstrating as to how the statements made in the counter are not correct.

That being so and having considered averments in the petition as well as the counter and the reply, it is clear that several disputed questions of fact are involved.

When we so expressed the learned counsel for the petitioner submitted that the petitioner is prepared to make a fresh representation to the Corporation and the Corporation may be directed to decide it within time frame.

Sri Harender Prasad, learned counsel for respondent No.4, has also no objection for adopting such course of action. He, however, submits that an opportunity of being heard may be given to respondent No.4 and the other respondents, who are occupants of the other three plots.

Having considered the submissions of the learned counsel for the parties and having regard to the nature of the controversy involved in the writ petition, we are satisfied that the writ petition can be conveniently disposed of by the following order:

“Petitioner is directed to enclose a copy of the instant writ petition along with annexures, the counter filed by the respondents and his reply to the counter before respondent No.2. Respondent No.2 shall treat the writ petition and the reply filed by the petitioner as his representation and the counter of the respondents as reply thereto and consider the same, after giving an opportunity of being heard to the petitioner and respondent Nos.4 to 7, and dispose it of as expeditiously as possible and preferably within a period of four months from the date of receipt of this order. It is open to the respondents to file their reply/additional reply, if they so desire, within the time granted by respondent No.2 for the same. It is also open to petitioner, in addition to their representation and the reply, as aforementioned, to file any other documents in support of their contentions. Respondent No.2 shall consider and decide the representation on merits in accordance with law.”

With these observations, the writ petition is disposed of.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 15-06-2015

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