IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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CASE No. W.P.Nos.23667, 32203 & 33410 of 2015

Between:

Timber Lake Colony Plot Owners Association

… Petitioner

AND

The State of Telangana, rep.by its Principal Secretary to Govt., Home Department, Secretariat, Hyderabad and others

… Respondents

DATE OF JUDGMENT PRONOUNCED: 11th February, 2016

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

1.	Whether reporters of local newspapers may be allowed to see the judgment?	Yes/No
2.	Whether the copies of judgment may be marked to Law Reporters/Journals?	Yes/No
3.	Whether Their Lordship wish to see the fair copy of the judgment?	Yes/No

C.V.NAGARJUNA REDDY, J

*** THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY**

+ Writ Petition Nos.23667, 32203 & 33410 of 2015

+ DT.11.02.2016

Timber Lake Colony Plot Owners Association

…Petitioner

(W.P.No.23667 of 2015)

Vs.

$ The State of Telangana, rep.by its Principal Secretary to Govt., Home Department, Secretariat, Hyderabad and others

… Respondents
(W.P.No.23667 of 2015)

^ Counsel for the Petitioner: Sri R.Reddi Sekhar
for Sri T.Rajendra Prasad
(W.P.No.23667 of 2015)

! Counsel for respondent No.2: Smt.Pingali Lakshmi
for Sri Sampath Prabhakar Reddy
(W.P.No.23667 of 2015)

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> Head note:

? Cases referred:

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition Nos.23667, 32203 & 33410 of 2015

Dated 11th February, 2016

Between:

Timber Lake Colony Plot Owners Association

…**Petitioner**
(W.P.No.23667 of 2015)

And

The State of Telangana, rep.by its Principal Secretary to Govt., Home Department, Secretariat, Hyderabad and others

…**Respondents**
(W.P.No.23667 of 2015)

Counsel for the petitioner: Sri R.Reddi Sekhar
for Sri T.Rajendra Prasad
(W.P.No.23667 of 2015)

Counsel for respondent No.2: Smt.Pingali Lakshmi
for Sri Sampath Prabhakar Reddy
(W.P.No.23667 of 2015)

The Court made the following:

COMMON ORDER:

As these writ petitions pertain to common subject matter, namely, right of way claimed by the residents of M.Prabhakar Reddy Chitrapuri Colony Welfare Association (for short 'the Chitrapuri Colony') and opposed by the Timber Lake Colony Plot Owners Association (for short 'the Timber Lake Colony'), they are heard and being disposed of together.

W.P.No.23667 of 2015 is filed by the Timber Lake Colony for a mandamus to declare the inaction of respondent Nos.2 and 3 therein i.e., Greater Hyderabad Municipal Corporation (GHMC) and the Collector, Ranga Reddy District, in considering its representations, dated 12.10.2014 and 29.12.2014, as illegal and arbitrary and sought for a consequential direction to the said respondents to consider its representations.

W.P.No.32203 of 2015 is filed M/s.Telugu Cine Workers Co-operative Housing Society Limited for a mandamus to declare the inaction of the GHMC and its Officials in not undertaking the work of forming connectivity road through the land in Survey No.66/1 of Raidurg Navakhalsa Village, Serilingampally Mandal, Ranga Reddy District as illegal and arbitrary.

W.P.No.33410 of 2015 is filed by the Chitrapuri Colony for a mandamus to declare the action of the respondents therein in closing the existing connectivity road from the Timber Lake Colony to Chitrapuri Colony at Survey No.66/1 of Raidurg Village, Serilingampally Mandal, Ranga Reddy District near old Mumbai road

instead of developing the same as black top road for the convenience of its members and general public as illegal and arbitrary.

The facts, which are not in dispute, are that there are two Colonies which are in neighbourhood of each other, namely, Chitrapuri Colony and Timber Lake Colony. In between these two Colonies, there exist lands owned by the Housing Board and also the State Government. On the north eastern side of the Chitrapuri Colony, a road appears to be in existence in the Timber Lake Colony and on the north eastern side of the Timber Lake Colony, old Mumbai highway leading to Mumbai on one side and to Gachibowli on the other side exists.

The petitioners in W.P.Nos.32203 and 33410 of 2015, whose members are residents of Chitrapuri Colony, want access to be provided by laying a black top road over the existing kacha road to connect Chitrapuri Colony to old Mumbai highway so as to reduce the present distance to reach the said highway. In this background, the Timber Lake Colony filed W.P.No.23667 of 2015 with the allegation that some works are being undertaken for forming road through its Colony thereby depriving its members of their right to exclusively enjoy their property. However, the grievance of the petitioners in the other two writ petitions is that though the Housing Board has given its consent for laying the road on its land, the GHMC is not taking any steps to form the road to lay a pucca road connecting old Mumbai highway.

In this context, the stand taken by the GHMC through its City Planner, West Zone, Serilingampally assumes significance. In W.P.Nos.32203 and 33410 of 2015, the City Planner *inter alia* averred that the Timber Lake Colony was formed towards northern side of Malkam Cheruvu unauthorisedly and that while it has no approved layout, the GHMC has accorded approval for plot No.4 only. It is further averred that the Office of the Zonal Commission has received letter bearing No.624/J2/LAO/APHB/2007, dated 05.03.2014, from the

Housing Board stating that it has received a representation from the petitioner in W.P.No.32203 of 2015, wherein it has requested to accord permission to lay connectivity road in Survey No.66/1 and that the GHMC was requested to offer remarks. As there is a proposal to lay connectivity road through the Timber Lake Colony, it has also requested the GHMC to furnish a copy of sketch proposal of connectivity road in the land of the Housing Board. That in response to the said letter, the GHMC vide its letter bearing No.786/202/Eng/GHMC/2013, dated 07.03.2014, has informed the Housing Board that there is a proposal to lay/develop the road from Timber Lake Colony to Chitrapuri Colony under the high tension line for creating circular connectivity for public movement, that as per Rule 3(c)(ii) of the Building Rules notified under G.O.Ms.No.168, dated 07.04.2012, where electrical tower lines pass over any land, such land shall be developed as green belt to the width of power base and there shall be a ten metres wide road or as defined in the master plan and that accordingly the GHMC has requested the Housing Board to permit it to lay the road from Chitrapuri Colony to Timber Lake Colony. That the Housing Board vide its letter, dated 07.03.2014, has permitted the GHMC to lay the connectivity road at the latter's cost from Chitrapuri Colony to Timber Lake Colony along with the existing high tension line over the land of the Housing Board in Survey No.66/1 of Raidurg Navkhalsa Village, Serilingampally Mandal, Ranga Reddy District and that as per the information received from the Engineering Section, Circle-II, the above said connecting road could not be formed as there is a stretch of land between the Housing Board and the Timber Lake Colony belonging to the Revenue Department and that there is a graveyard on the said stretch. It is accordingly stated that unless the said stretch of the land is handed over by the revenue authorities to the GHMC, it cannot form the connectivity road.

No reply affidavit is filed by any of the parties in these writ petitions to the above counter affidavit.

The gist of the contents of the counter affidavit is summed up hereunder:

(i) Timber Lake Colony does not have approved layout;

(ii) GHMC is willing to form/develop connecting road from Chitrapuri Colony to old Bombay Highway;

(iii) Housing Board has given its consent in writing to the GHMC for the said purpose for using its land between the Timber Lake Colony and Chitrapuri Colony for the said purpose and

(iv) The work could not be undertaken as part of the stretch over the proposed road belongs to revenue department and so far the said department has not given any permission.

As regards the relief claimed by the Timber Lake Colony, from the uncontroverted averments in the counter affidavit of the City Planner, GHMC referred to above, it is proved that the said Colony has no approved layout. It has also not claimed any ownership on any part of the land over which the proposed road is sought to be formed/developed. Therefore, I do not find any legal right in the said body to oppose laying of a road. Hence, it is not entitled to any relief as claimed in its writ petition (W.P.No.23667 of 2015).

With regard to the relief claimed in W.P.Nos.32203 and 33410 of 2015, it is evident from the same counter affidavit of the City Planner that the GHMC is intending to form/develop the road in order to develop a circular road for easing the traffic. However, the counter affidavit is silent on the reason why it has not addressed the revenue department for giving its consent for forming the road which undoubtedly is a public purpose. If the Housing Board has given its consent for forming such road, I cannot see any reason why the revenue department would not give such consent. The only thing that appears to lack is the will on the part of the GHMC to pursue with the revenue department for obtaining consent. The GHMC cannot throw

onus on the residents of a Colony when it is convinced that public interest warrants forming of a road.

Furthermore, from the counter affidavit, it is evident that the land underneath the electrical line shall be developed as green belt area with roads of ten meters width on either side of such green belt. If it is so, apart from the demand of the residents of the Chitrapuri Colony, even as a statutory compulsion, the GHMC is bound to lay a connecting road in order to conform to Rule 3(c) (ii) of the Rules as referred to in the counter affidavit. Therefore, this Court feels that it is incumbent upon the GHMC to pursue with the revenue department and form a connecting road.

In the above facts and circumstances of the case, the GHMC is directed to make a serious pursuance with the revenue department of the State of Telangana for obtaining its consent for forming/developing the connecting road. The State of Telangana which is arrayed as respondent No.1 in W.P.No.32203 of 2015 shall also co-operate with the GHMC in forming/developing connecting road in public interest. Both these respondents are directed to ensure that a road is formed and developed as early as possible and not later than six months from the date of receipt of a copy of this order.

In the light of the above, W.P.No.23667 of 2015 is dismissed and W.P.Nos.32203 and 33410 of 2015 are allowed to the extent indicated above.

As a sequel to disposal of the writ petitions, the interlocutory applications, if any pending, shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

11th February, 2016
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