

High Court for the State of Telangana

The Hon'ble The Acting Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Dr. Justice Shameem Akther

Writ Appeal No.401 of 2019

Date: 08-05-2019

Between:

Mamidala Ravinder and 5 others

...Appellants

and

Kasani Gopal and 8 others

...Respondents

Counsel for the appellants: Mr. Vedula Venkataramana, Sr. Counsel

Counsel for the respondent Nos.1 to 3: Mrs. Y. Anupama Devi

**Counsel for the respondent Nos.5 to 7: Mrs. Pingali Lakshmi,
SC for GHMC**

The Court made the following:

Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellants are aggrieved by the order dated 29-04-2019, passed by the learned Single Judge in I.A.No.1 of 2019 in Writ Petition No.8143 of 2019, whereby the learned Single Judge has directed the Commissioner, Greater Hyderabad Municipal Corporation (for short 'the GHMC'), *“to take necessary action against any unauthorized construction being made by any one including respondent Nos.5 and 6.”*

Mr. Vedula Venkataramana, the learned Senior Counsel for the appellants, submits that the respondent Nos.1 to 3 (writ petitioners) had challenged the illegal construction being raised by respondent Nos.8 and 9 herein (respondent Nos.5 and 6 in the writ petition). Therefore, the impugned order should have been restricted itself only to the illegal construction allegedly being raised by respondent Nos.8 and 9. However, a general order has been passed by the learned Single Judge without the appellants being arrayed as the party respondents in the writ petition. Moreover, in the garb of the said order, the GHMC is taking action against the appellants. Therefore, the impugned order deserves to be interfered with by this Court.

On the other hand, Mrs. Anupama Devi, the learned counsel for respondent Nos.1 to 3, submits that a large number of illegal constructions are being raised in Survey No.46/A of Shamshiguda Village, Balanagar Mandal, Ranga Reddy District. Since these are illegal constructions, the GHMC would be justified in demolishing the same.

Furthering the arguments raised by the learned counsel for the respondent Nos.1 to 3, Mrs. Pingali Lakshmi, the learned standing counsel for GHMC, pleads that in the light of the impugned order passed by the learned Single Judge, notices have already been issued to the appellants under the relevant law. Therefore, she has supported the impugned order.

Heard the learned counsel for the parties, and perused the impugned order.

A bare perusal of the main relief sought by the respondent Nos.1 to 3 (writ petitioners) clearly reveals that they were seeking a relief squarely against respondent Nos.8 and 9 and not against “any other person”. Admittedly, the appellants were not arrayed as the party respondents in the

writ petition filed by the respondent Nos.1 to 3. Hence, the impugned order should have restricted itself to the prayer sought by the respondent Nos.1 to 3. Needless to say a Court cannot go beyond the prayer sought by a party.

Even if the alleged illegal constructions are being raised in Survey No.46/A of Shamshiguda Village, Balanagar Mandal, Ranga Reddy District, the GHMC is free to take its action against the illegal constructions, provided it does so, strictly in accordance with law. However, the GHMC is not justified in taking any action against the appellants in the garb of the order passed by the learned Single Judge. After all, the said order could not have covered the cases of those persons, who were not even arrayed as the party respondents in the writ petition.

For the reasons stated above, the impugned order dated 29-04-2019, in I.A.No.1 of 2019 in Writ Petition No.8143 of 2019, is restricted to only respondent Nos.8 and 9 (respondent Nos.5 and 6 in the writ petition).

The Writ Appeal is, accordingly, allowed to the extent indicated above.

As a sequel, Miscellaneous Petitions, pending if any,
stand disposed of as infructuous.

(Raghvendra Singh Chauhan, ACJ)

(Dr. Shameem Akther, J)

Dt: 8th May, 2019
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