

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.432 OF 2020

Date:10.1.2020

Between:

Udharapu Jhansi Rani W/o U Rama Rao aged about 43 years
Occ House Wife First Floor under
Phase IV KPHB colony
Kukatpally MedchalMalkajgiri District

.....Petitioner

And

The State of Telangana And 5 Others
Rep by its Prl Secretary Municipal Department Secretariat Hyderabad

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.432 OF 2020

ORAL ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Municipal Administration and learned standing counsel for Greater Hyderabad Municipal Corporation.

2. Petitioner claim that she is resident of house bearing No. 15-31-IV-L-1/6, first floor, Phase IV, KPHB Colony, Hyderabad and that her husband purchased the same from A.P. Housing Board. Petitioner alleges that in the same building, ground floor was purchased by 6th respondent; that in the year 2017, 6th respondent leased out the ground floor to 5th respondent; in turn, 5th respondent established a Super-bazar and bakery and is now trying to occupy the common area belonging to all the three owners of the building by constructing permanent shed which would prevent drainage, drinking water system and movement of other owners. Ventilating her grievance, petitioner stated to have made several representations and alleging inaction by respondents, this writ petition is filed.

3. In other words, grievance of the petitioner is that the unofficial respondents 5 and 6 are trying to construct shed by occupying common property belonging to three owners of the building. It thus appears, the dispute is civil in nature. Whether unofficial respondents are entitled to occupy common area, whether what is contended is a common area belonging to all the three owners of the building and accessible to all and no individual can claim exclusive right to occupy the common area, etc are matters which require adjudication after leading evidence. No finding of fact can be recorded in a writ petition filed under Article 226 of the Constitution of India, based on assertions in the writ petition. Accordingly, the writ petition is dismissed. However, it is open to petitioner to workout her remedies with reference to alleged occupation of the common space and this order does not come in the way of Greater Hyderabad Municipal Corporation, taking appropriate action, if any illegal construction is made without obtaining building permission. Miscellaneous petitions, if any pending stands dismissed.

P.NAVEEN RAO,J

Date 10.1.2020

tvk

HONOURABLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NO.432 OF 2020

Date:10.1.2020