HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY ,THE EIGHTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION NO: 19040 OF 2020

Between:

1. Mir Asad Sayeed Khan @ Asad Khan, S/o.Mir Laiq Ali Khan,
Aged 64 years, Occ: Business,
R/o.H.No.19-5-17/29, Srinagar Colony,
Bahadurpura, Hyderabad.

2. Sabiha Rauf, W/o. late Abdul Rauf,
D/o. late Anwar Mirza,
Aged 72 years, Occ: Housewife,
R/o.H.No.19-4-294/13, Meer Alam Tank
Beside Eidgah, Bahadurpura, Hyderabad.

3. Afroze Begum, W/o. late Asad Khan,
D/o. Anwar Mirza,
Aged 67 years, Occ: Housewife,
R/o.H.No.20-3-600, Moosa Bowli,
Hussaini Alam, Hyderabad.

4. Arshia Mazhar Khan, W/o. Mohd Mazaruddin Khan,
D/o. late Anwar Mirza,
Aged 66 years, Occ: Housewife,
R/o.H.No.3-4-306, Baghlingampally, Hyderabad.

5. Parveen Kausar Khan, W/o.Mohd Nabizar Khan,
D/o. Mohammed Ali Khan,
Aged 63 years, Occ: Housewife,
R/o.H.No.5-6-568, Nampally, Hyderabad.

6. Asif Hussain Khan, S/o.late Nawab Hussain Ali Khan,
Aged 72 years, Occ: Business,
R/o.Flat No.205, 2nd Floor, Gulshan Apts.,
Masab Tank, Hyderabad.

7. Nawab Farooq Hussain Khan @ Nawab Farooq Hussain Khan,
S/o.late Nawab Hussain Ali Khan,
Aged 55 years, Occ: Business,
R/o.H.No.8-2-603/4/14/B, Road No.10,
Ibrahim Nagar, Banjara Hills, Hyderabad.

8. Adeeb Unnisa Begum, W/o.Shabbir Jah Bahadur,
D/o. Nawab Hussain Ali Khan,
Aged 67 years, Occ: Household,
R/o.H.No.10-4-13/7, 3rd Floor,
Lakshmi Nilayam Apts., Masab Tank, Hyderabad.

9. Talath Begum @ Talath Unnisa Begum, W/o.Imdad Jah Bahadur,
D/o. late Mir Laiq Ali Khan & Quamarunnisa Begum,
Aged 72 years, Occ: Housewife,
R/o.H.No.8-2-676/1/C/A, Royal Court,
Road No.13, Banjara Hills, Hyderabad.

10. Ahmed Sayeed Khan, S/o.Mir Laiq Ali Khan,
Aged 65 years, Occ: Business,
R/o.H.No.19-5-17/29, Srinagar Colony,
Bahadurpura, Hyderabad.

11. Sajid Ullah Khan, S/o.Mir Laiq Ali Khan,
Aged 61 years, Occ: Business,
R/o.H.No.19-5-17/29, Srinagar Colony,
Bahadurpura, Hyderabad.

The Petitioners 1 to 11 are represented by GPA holders who are as follows:

1. Goukaran Singh, S/o.late Pratap Singh,
Aged 48 years, Occ: Business,
R/o.H.No.14-11-264, Upper Dhoolpet,
Mangalhat, Hyderabad, Telangana State.

2. T.Vijay Singh, S/o. late T.Ratan Singh,
Aged 48 years, Occ: Business,
R/o.H.No.14-11-150, Mangalhat,
Hyderabad, Telangana State.

3. V.G.Purushotham, S/o. late V.G.Kurmaiah,
Aged 50 years, Occ: Business,
R/o.H.No.15-7-435, Begum Bazar,
Hyderabad, Telangana State.

4. G.Mahender, S/o. Yellaiah,
Aged 56 years, Occ: Business,
R/o.H.No.11-3-357/10, Shabazguda,
Srinivas Nagar, Sithaphalmandi,
Secunderabad, Telangana State.

5. Uttam Chand Jain, S/o. Mangilal Jain,
Aged 61 years, Occ: Business,
R/o.H.No.6-1-268,
Hyderabad, Telangana State.

12. Meherunnisa Begum, W/o.Nawab Syed Juffar,
D/o. Nawab Hussain Ali Khan,
Aged 66 years, Occ: Household,
R/o.H.No.207/A, MLA Colony,
Banjara Hills, Road No.12, Hyderabad.

...PETITIONERS

AND

1. The State of Telangana,
Rep. by its Principal Secretary – Municipal Administration &
Urban Development Department,
Secretariat, Hyderabad, Telangana.

2. GHMC, Rep. by its Commissioner,
Tank Bund, Hyderabad.

3. The Deputy Commissioner,
Circle 14, GHMC, Hyderabad.

4. Smt. Zehra Khatoon, W/o. Mohammed Moazam Khan,
Aged 46 years, Occ: not known,
R/o. 10-2-289/41, Shanthi Nagar,
Masab Tank, Hyderabad.

5. Mohammed Moazam Khan, S/o. Mohammed Naseeb Khan,
Aged 50 years, Occ: not known,
R/o. 10-2-289/41, Shanthi Nagar,
Masab Tank, Hyderabad.

6. Smt. Shad Khatoon, W/o. Pervez Ahmed Khan,
Aged 60 years, Occ: not known,
R/o. 2-2-16/A/1, Osmania University Road,
D.D. Colony, Hyderabad.

7. Mohammed Hyder Khan, S/o. Mohammed Adli Khan,
Aged 41 years, Occ: not known,
R/o. 3-6-162, Hyderguda, Hyderabad.

8. Mohammed Hussain Khan, S/o. Mohammed Adli Khan,
Aged 39 years, Occ: not known,
R/o. 3-6-162, Hyderguda, Hyderabad.

9. Nilamath Mohammed Khan, S/o. Mohammed Adli Khan,
Aged 44 years, Occ: not known,
R/o. 3-6-162, Hyderguda, Hyderabad.
Presently residing at USA.

(Respondents 6 to 9 are Rep. by their GPA holder,
Mohammed Moazam Khan, S/o. Mohammed Naseeb Khan,
R/o. 10-2-289/41, Shanthi Nagar, Masab Tank,
Hyderabad, the 5th respondent herein.)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order declaring the action of the 2nd respondent in rejecting our objections vide proceedings No. 1/C14/02223/2020/721, dated 05/-12-10-2020 and consequently granting permission for construction vide building permit No.1/C14/10850/2020, dated 12/10/2020 in favour of the respondents 4 to 9 as illegal and arbitrary and set aside the same and direct the 2nd respondent not to grant any permission to respondents 4 to 9 in respect of premises bearing D.Nos.881(old) new 15-7-391, 392/A, 393, 394, 394/1, 394/A, 394/A/1, 395, 396, 397, 398, 399, 400, 401 and 402 with attached mulgies situated at Begumbazar, Hyderabad

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim suspension of the building permit No.1/C14/10850/2020, dated 12.10.2020, pending disposal of the above writ petition

COMMON C.T. FOR I.A.NOS. 2 & 3 OF 2020:

Between:

1. Smt Zehra Khatoon W/o Mohammed Muazam Khan
   Aged 46 years Occ not known R/o 10-2-289/41
   Shanthi Nagar Masab Tank Hyderabad

2. Mohammed Moazam Khan S/o Mohammed Naseeb Khan
   Aged 50 years Occ not known R/o 10-2-289/41
   Shanthi Nagar Masab Tank Hyderabad

3. Smt Shad Khatoon W/o Pervez Ahmed Khan Aged 60 years
   R/o 2-2-16/A/1 Osmania University Road D D Colony Hyderabad

4. Mohammed Hyder Khan S/o Mohammed Adli Khan Aged 41 years
   R/o 3-6-162 Hyderguda Hyderabad

5. Mohammed Hussain Khan S/o Mohammed Adli Khan
   Aged 39 years Occ not known R/o 3-6-162 Hyderguda Hyderabad

6. Nilamath Mohammed Khan S/o Mohammed Adli Khan
   Aged 44 years Occ not known R/o 3-6-162
   Hyderguda Hyderabad Presently residing at USA

Respondents 1 to 5 are Rep by their GPA holder
Mohammed Moazam Khan S/o Mohammed Naseeb Khan
R/o 10-2-289/41 Shanthi Nagar Masab Tank
Hyderabad

..PETITIONERS
RESPONDENTS 4 - 9

AND

1. Mir Asad Sayeed Khan Asad KhanS/o Mir Laiq Ali Khan
   Aged 64 years Occ Business R/o H No 19-5-17/29
   Srinagar Colony Bahadurpura Hyderabad

2. Sabiha Rauf W/o late Abdul Rauf D/o late Anwar Mirza
   Aged 72 years Occ Housewife R/o H No 19-4-294/13
   Meer Alam Tank Beside Eidgah Bahadurpura Hyderabad

3. Afroze Begum W/o late Asad Khan D/o Anwar Mirza
   Aged 67 years Occ Housewife R/o H No 20-3-600
   Moosa Bowli Hussaini Alam Hyderabad

4. Arshia Mazhar Khan W/o Mohd Mazaruddin Khan
   D/o late Anwar Mirza Aged 66 years Occ Housewife
   R/o H No 3-4-306 Baghlingampally Hyderabad

(8)

5. Parveen Kausar Khan W/o Mohd Nabizar Khan
D/o Mohammed Ali Khan Aged 63 years
Occ Housewife R/o H No 5-6-568 Nampally Hyderabad

6. Asif Hussain Khan S/o late Nawab Hussain Ali Khan
Aged 72 years Occ Business R/o Flat No 205
2nd Floor Gulshan Apts Masab Tank Hyderabad

7. Nawab Farooq Hussain Khan S/o late Nawav Hussain
Ali Khan, aged 55 yrs Occ: Business R/o 8-2-603/14/B
Road No.10, Ibrahimnagar, Banjara Hills, Hyderabad

8. Adeeb Unnisa Begum W/o Shabbir Jah Bahadur
D/o Nawab Hussain Ali Khan Aged 67 years
Occ Household R/o H No 10413/7 3rd Floor
Lakshmi Nilayam Apts Masab Tank Hyderabad

9. Talath Begum Talath Unnisa Begum W/o Imdad Jah Bahadur
D/o late Mir Laiq Ali Khan and Quamarunnisa Begum
Aged 72 years Occ Housewife R/o H No 8-2-676/1/C/A
Royal Court Road No 13 Banjara Hills Hyderabad

10.Ahmed Sayeed Khan S/o Mir Laiq Ali Khan Aged 65 years
Occ Business R/o H No 1-9-517/29 Srinagar Colony
Bahadurpura Hyderabad

11. Sajid Ullah Khan S/o Mir Laiq Ali Khan
Aged 61 years Occ Business R/o H No 1-9-517/29
Srinagar Colony Bahadurpura Hyderabad

Petitioners 1 to 11 are represented by GPA holders who are as follows
1) Goukaran Singh S/o late Pratap Singh Aged 48 years Occ Business
R/o H No 14-11-264 Upper Dhoolpet Mangalhat Hyderabad Telangana State

2) T Vijay Singh S/o late T Ratan Singh Aged 48 years
Occ Business R/o H No 14-11-150 Mangalhat Hyderabad
Telangana State
3) V G Purushotham S/o late V G Kurmaiah Aged 50 years
Occ Business RJo H No 15-7-435 Begum Bazar Hyderabad
Telangana State
4) G Mahender S/o Yellaiah Aged 56 years
Occ Business R/o H No 1-13-357/10
Shahazguda Srinivas Nagar Sithaphalmandi
Secunderabad Telangana State
5) Uttam Chand Jain S/o Mangilal Jain
Aged 61 years Occ Business R/o H No 61268
Hyderabad Telangana State

12.Meherunnisa Begum W/o Nawab Syed Juffar
D/o Nawab Hussain Ali Khan Aged 66 years
Occ Household R/o H No 207/A MLA Colony
Banjara Hills Road No 12 Hyderabad

.. RESPONDENTS
PETITIONERS 1 -12

13. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad, Telangana.
14. Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tank Bund, Hyderabad.
15. The Deputy Commissioner, Circle No.14, Greater Hyderabad Municipal Corporation, Hyderabad.

....RESPONDENTS/
RESPONDENTS 1 TO 3

IA NO: 2 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders dated 02/11/2020 passed by this Hon'ble Court in WP No 19040 of 2020

IA NO: 3 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to receive the sale documents Nos. 368 of 1959, 577 of 1959, 231 of 2001, 1392 of 2004 Town Survey register and the photographs in the above Writ Petition for proper adjudication of the case in the interest of justice

Counsel for the Petitioners: SRI C. RAGHU

Counsel for Respondent No. 1: GP FOR MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT

Counsel for Respondent Nos. 2 & 3: SRI N. ASHOK KUMAR, SC FOR GHMC

Counsel for Respondent Nos. 4 to 9: SRI S. NIRANJAN REDDY, SENIOR COUNSEL FOR SRI C. NARESH REDDY

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.19040 of 2020

ORDER:

This writ petition is filed seeking a writ of *mandamus* declaring the action of respondent No.2-the Commissioner, GHMC, in rejecting the objections filed by the petitioners *vide* proceedings No.1/C14/02223/2020/721, dated 05/12.10.2020, and consequently granting permission for construction *vide* building permit No.1/C14/10850/2020, dated 12.10.2020, in favour of respondent Nos.4 to 9, as illegal and arbitrary.

The case of the petitioners, who are being represented by their General Power of Attorney Holder, in brief, is that they are the owners and possessors of the property known as 'Devdi Begumbazar' bearing D.No.881(old), New Nos.15-7-391, 392/A, 393, 394, 394/1, 394/A, 394/A/1, 395, 396, 397, 398, 399, 400, 401 and 402 with attached mulgies situated at Begumbazar, Hyderabad. The petitioners are claiming rights over the subject property through one Smt. Rahmathunnisa Begum. The said Rahmathunnisa Begum sold the subject property in favour of her daughter Smt.Zahoorunnisa Begum under a registered sale deed. The petitioners are the legal heirs of the said Smt.Zahoorunnisa Begum. The petitioners state that respondent Nos.4 to 9, who do not have any right or interest over the subject property, have fabricated seven gift deeds in relation to the subject property and approached respondent No.2 for building permission. Aggrieved by the steps initiated by respondent No.2 for grant of building permission, petitioner No.12 approached this Court and filed W.P.No.7702 of 2020, and this Court *vide* order dated 08.06.2020

disposed of the said writ petition directing respondent No.2 to consider the objections raised by the petitioner therein while considering the application for building permission of respondent No.4 therein. However, respondent No.12, without complying with the directions issued by this Court in the said order, has granted building permission in favour of respondent Nos.4 to 9 on 01.07.2020. Aggrieved by the same, petitioner No.12 filed W.P.No.10248 of 2020 and this Court *vide* order dated 14.07.2020 has suspended the building permission dated 01.07.2020. Subsequently, this Court *vide* common order dated 07.09.2020 disposed of W.P.No.10248 of 2020 along with W.P.No.11633 of 2020, which was filed by one of the petitioners herein, directing respondent No.2 to consider the objections and thereafter pass orders.

According to the petitioners, petitioner Nos.1 to 11 filed O.S.Nos.1289 to 1295 of 2020 before XXI Junior Civil Judge, City Civil Court, Hyderabad, for cancellation of the seven gift deeds relied upon by respondent No.4 for the purpose of claiming rights and the Court below granted *status quo* orders on 16.07.2020 and the same are being extended from time to time.

While so, respondent No.2 issued notices to the petitioners for conducting hearing on 19.09.2020 and the petitioners have submitted their objections to the said notices. The grievance of the petitioners is that respondent No.2 *vide* impugned order, dated 05/12.10.2020, has rejected their objections, and on the very same day, granted building permission in favour of the unofficial respondents. Hence, this writ petition.

On 02.11.2020, this Court, while issuing notice before admission, has suspended the building permission.

Respondent Nos.4 to 9 have filed I.A.No.2 of 2020 seeking to vacate the interim order granted by this Court on 02.11.2020. A counter-affidavit is filed along with the vacate stay application denying the petition averments and stating that late Nawab Bahadur Yar Jung, late Nawab Mandoor Khan and late Nawab Mohd. Doulath Khan were brothers and owners of different properties in different Districts and so also the property known as 'Bahadur Yar Jung Devdi' situated at Begum Bazar, Hyderabad. The said Bahadur Yar Jung and his wife Smt. Noor Alam Khatoon being issueless adopted Smt. Khanna Khatoon D/o. Nawab Mohd. Doulath Khan and Mohd. Naseeb Khan S/o. Late Mandoor Khan. Subsequently, Nawab Mohd. Doulath Khan filed a suit being O.S.No.16 of 1961 seeking partition of the said property and the same was decreed. That Smt. Noor Alam Khatoon, W/o. Nawab Bahadur Yar Jung has sold the mulgies bearing Municipal Nos.15-7-391, 15-7-392, 15-7-392/A and 15-7-393 admeasuring 174 square yards, which fallen to her share in 'Bahadur Yar Jung Devdi', in favour of her son - Nawab Naseeb Khan, who in turn, gifted the same to his son, Mohd. Moazam Khan under registered gift deed dated 14.12.1981. That Mohd. Naseeb Khan, the elder son of Mandoor Khan, who was adopted by Nawab Bahadur Yar Jung, filed O.S.No.657 of 1983 on the file of the Additional Judge, City Small Causes Court, Hyderabad, seeking administration of Estate of the deceased Nawab Mandoor Khan in respect of the properties left by him including the properties which were orally gifted by late Mohd. Mandoor Khan to his children including Mohd.

Adli Khan, and the said suit was decreed partly. That the said Mohd. Adli Khan has executed four different gift deeds in favour of his children. That the names of the predecessors of respondent Nos.4 to 9 were mutated as owners of the said properties and they have been paying the property tax, and that the names of respondent Nos.4 to 9 were also mutated in the municipal records. It is further stated that respondent Nos.4 to 9 are the absolute owners and possessors of the subject properties since more than four decades and that they themselves and their predecessors-in-title are enjoying the subject properties. The property being claimed by them and the petitioners is totally different. The petitioners have not filed a single scrap of paper showing their possession over the schedule property and also failed to produce or file an iota of paper showing co-relation of old house numbers and new numbers. It is further stated that if the interim order dated 02.11.2020 is not vacated, respondent Nos.4 to 9 would be put to great loss and hardship.

A reply affidavit has been filed on behalf of the petitioners stating that the right of Rahamunnisa Begum, W/o. Kamal Yar Jung is independent. The fact that she sold the property under registered sale deed to Smt. Zahoorunnisa Begum itself shows that late Nawab Bahadur Yar Jung is no way connected with the subject property. It is stated that Nawab Mohammad Mandoor Khan does not have any right in the property and therefore, the persons claiming right through him do not have any valid title. That the petitioners are no way connected with O.S.No.657 of 1983 and the alleged oral gifts do not have any legal sanctity and that the appeal filed against the decree passed in the said suit is

pending before this Court. It is also stated that the gift deeds executed by Mohd. Adli Khan in favour of his children do not disclose any link title, and therefore, seven suits have been filed to cancel the said gift deeds. That respondent Nos.4 to 9 are now trying to claim 'Kamal Yar Zung Devdi' as 'Bahadur Zung Devdi'. That the old numbers/new numbers and the boundaries are in consonance with the contents of the sale deed Doc.No.926/1328 Fasli. It is further stated that the unofficial respondents are wrongly identifying the property and since it is a complex issue, the same cannot be adjudicated by the Corporation and that since suits are already filed, the Corporation ought to have directed the parties to get adjudicated the issue before the Civil Court in pending cases instead of passing the impugned order.

Heard Sri C. Raghu, learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for respondent No.1, Sri N. Ashok Kumar, learned Standing Counsel for GHMC for respondent Nos.2 and 3 and Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf of Sri C. Naresh Reddy, learned counsel for respondent Nos.4 to 9. With their consent, the Writ Petition is disposed of at the stage of admission.

Learned counsel for the petitioners states that the impugned order passed by the respondent No.2 rejecting the objections of the petitioners is manifestly illegal since no reasons have been assigned for such rejection of objections. Learned counsel has further stated that when respondent No.2 came to the conclusion that he is not the competent authority, he ought to have relegated the parties to Civil Court; that the seven gift deeds relied upon by

the unofficial respondents are silent with regard to the tracing of the title; that it is simply mentioned that the donor in the gift deed had been given an oral gift by his father, and that no particulars with regard to the alleged oral gift have been mentioned in the gift deed. Learned counsel has further stated that though it was brought to the notice of respondent No.2 with regard to the pendency of the seven suits and passing of *status quo* orders in the said suits, the same has not been mentioned in the impugned order. Learned counsel has further stated that the building permission has been granted in favour of the unofficial respondents on the very same day the impugned order of rejection was passed, and therefore, he prays to set aside the impugned order.

On the other hand, Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf of Sri C. Naresh Reddy, learned counsel for respondent Nos.4 to 9, sought to sustain the impugned order stating that respondent Nos.4 to 9 are the owners of the subject properties and that the petitioners have not filed a single scrap of paper showing their possession over the schedule property and that there is no iota of evidence showing co-relation of old house numbers and new numbers, and therefore, he prayed to dismiss the writ petition.

A perusal of the record discloses that earlier when respondent Nos.4 to 9 approached respondent No.2 for building permission, petitioner No.12 herein approached this Court and filed W.P.No.7707 of 2020, and this Court, on 08.06.2020, has passed the following order:

> *"In that view of the matter, the Writ Petition deserves to be allowed with a direction to the Corporation to consider the specific objections raised by the petitioner with respect to the subject property while considering the Application for permission by the 4th respondent. At this stage, since no prejudice would be caused to the 4th respondent, it is not necessary to issue any notice as this Court is not expressing any opinion with regard to merits of the matter or the claim of the petitioner, as it would be within the power and jurisdiction of the Municipal Commissioner to examine the same.*

However, Respondent No.2, instead of complying with the order passed by this Court in W.P.No.7707 of 2020, granted building permission to the unofficial respondents. Therefore, petitioner No.12 again approached this Court and filed W.P.No.10248 of 2020 and this Court, on 14.07.2020, has granted an interim order suspending the said permission. Subsequently, W.P.No.10248 of 2020 was disposed of along with W.P.No.11633 of 2020 by common order dated 07.09.2020, the operative portion of which reads as under:

> *"Since as on today, there is no permission granted in favour of any of the parties by GHMC, the parties cannot proceed from making further constructions in respect of the subject property, till the objections are considered and a decision is taken by the Commisioner-2nd respondent for granting permission, as directed in W.P.No.7707 of 2020, within a period of three weeks from the date of receipt of a copy of this order. It is open for the parties to raise all objections before the 2nd respondent."*

Pursuant to the said common order passed by this Court on 07.09.2020, respondent No.2 had issued notices to the petitioners for conducting hearing on 19.09.2020, and thereafter passed the order dated 05/12.10.2020 rejecting the objections filed by the

petitioners, and subsequently, granting building permission in favour of the unofficial respondents on 12.10.2020.

Admittedly, the respondent Corporation is not a competent authority to decide the title aspects. But, if the applicant is seeking building permission and produces valid title deeds, the Corporation can look into the same and grant building permission in his/her favour. In the instant case, respondent No.2 has granted building permission in favour of the unofficial respondents after looking into the *prima facie* title only. Merely granting of building permission will not take away the right, title or interest of the rival claimants.

It is well accepted principle of law that where serious disputed questions of title or facts are involved, it is only the competent Civil Court which can give a finding regarding the title, possession etc., based on the evidence on record. The authorities under the GHMC Act do not have the power to decide the title to the property where two rival claimants are seriously disputing the title of one another. Neither the Commissioner nor the Deputy Commissioner of the Municipal has the jurisdiction to decide the title dispute between two or more rival parties in respect of the immovable properties. It is only the Civil Courts that have the exclusive domain and jurisdiction to adjudicate the right/title/dispute between the rival parties in respect of the immovable properties. It is only the Civil Court which can record the evidence and taking into account the oral and documentary evidence adjudicate the rights of the parties. The role of the Municipal Commissioner is only to see if the party applying for building permission is having *prima facie* title or not and whether

the building plan submitted are in accordance with the Act, Rules, By-laws, and various G.Os., issued from time to time. Ultimately, if a decree is passed by a Civil Court, the same is not only binding on the parties but also the Municipal and Revenue authorities.

The Three Judges Bench of the Hon'ble Supreme Court in **State of Gujarat v. Patil Raghav Natha**[1], at para 14, has held as under:

> *"We are also of the opinion that the Commissioner should not have gone into the question of title. It seems to us that when the title of an occupant is disputed by any party before the Collector or the Commissioner and the dispute is serious the appropriate course for the Collector or the Commissioner would be to refer the parties to a competent Court and not to decide the question of title himself against the occupant."*

In view of the above proposition of law neither the authorities under the GHMC Act nor the High Court under Article 226 of the Constitution of India can intervene where serious disputed questions of title or facts are involved, the proper remedy for the aggrieved party is to approach the Civil Court.

In view of the aforementioned facts and circumstances and the law laid down by the Hon'ble Supreme Court, this Court does not find any merit to interfere with the impugned order. However, it is made clear that any construction made will be subject to the final result of the O.S. Nos.1289 to 1295 of 2020 pending on the file of the XXI Junior Civil Judge, City Civil Court, Hyderabad. It is also made clear that any observations and findings made in this order are for the purpose of deciding this writ petition only and should not be construed as giving any finding on merits or

[1] (1969) 2 SCC 187

demerits on the title of the parties. In case, any civil suit is filed, the Civil Court should decide the case on its own merits, without being influenced by any of the observations or findings recorded in this writ petition.

Subject to the above observations, the writ petition is disposed of.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. There shall be no order as to costs.

SD/- M.MANJULA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The XXI Junior Civil Judge, City Civil Court, Hyderabad.
2. One CC to Sri C Raghu Advocate [OPUC]
3. Two CCs to GP for Municipal Administration & Urban Development, High Court for the State of Telangana (OUT)
4. One CC to Sri N. Ashok Kumar, SC for GHMC (OPUC)
5. One CC to Sri C. Naresh Reddy, Advocate (OPUC)
6. Two CD Copies

MBC

HIGH COURT

DATED: 18/12/2020



ORDER

WP.No.19040 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

SSV
8 copies
Dt 29/12/2020