

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

TUESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION NO: 19856 OF 2020

Between:

Sri Dyarangula Nagesh, S/o Late D. Das, Aged about 43 years, Occ. Businessmen,
House No.4-166/6/A, Das Nagar, Armour Road, Makloor Mandal, Nizamabad - 503003.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development, Secretariat, Hyderabad.
2. The Tahsildar, Makloor Mandal, Nizamabad District.
3. The District Collector, Nizamabad.
4. Nizamabad Municipal Corporation, Rep. by its Commissioner, Nizamabad District.
5. The Deputy Executive Engineer, Project Sub Division Armour, Nizamabad.

...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 an appropriate Writ, Direction or Order, particularly one in the nature of Writ of Mandamus declaring the Notice No.B/570/2020 Dated 26/09/2020 issued by the Respondent No.3 directing eviction of the Petitioner from his property bearing House No.4-166/6/A and the appurtenant vacant land as illegal, arbitrary, violative of principles of natural Justice and the provisions of the Telangana Land Encroachment Act, 1905 and consequently set aside the same further direct the Respondents not to dispossess the Petitioner from the said land without following due process of law.

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 stay of all further proceedings pursuant to the Notice No.B/570/2020 Dated 26/09/2020 issued by the Respondent No.3, pending disposal of the writ petition.

Counsel for the Petitioner: SRI. KOWTURU PAVAN KUMAR

Counsel for the Respondent No.1:

GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT

Counsel for the Respondent Nos.2 & 3: GP FOR REVENUE

**Counsel for the Respondent No.4: SRI V. SATYAM REDDY,
SC FOR NIZAMABAD MUNICIPAL CORPORATION**

Counsel for the Respondent No.5:

GP FOR IRRIGATION & COMMAND AREA DEVELOPMENT DEPARTMENT

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.19856 of 2020

ORDER:

This Writ Petition, under Article 226 of the Constitution of India is filed by the petitioner, wherein, the following prayer is made:

"...to issue an appropriate writ, direction or order, particularly one in the nature of Writ of Mandamus declaring the Notice No.B/570/2020, dated 26/09/2020 issued by the Respondent No.3 directing eviction of the petitioner from his property bearing House No.4-166/6/A and the appurtenant vacant land as illegal, arbitrary, violative of principles of natural Justice and the provisions of the Telangana Land Encroachment Act, 1905 and consequently set aside the same further direct the respondents not to dispossess the petitioner from the said land without following due process of law and pass such other order or orders..."

2. Heard the learned counsel for both sides and perused the record.

3. As seen from the material placed on record, in the last paragraph of the show cause notice No.B/570/2020, dated 26.09.2020 issued under Section 7 of the Land Encroachment Act, 1905 by the respondent No.2-The Tahsildar, Makloor Mandal, to the petitioner, it is mentioned as follows:

"Take notice also that the Girdawar, Makloor is hereby authorized to carry out the eviction and to take possession of, and retain in proper custody, anything on the land liable to forfeiture pending the Collector's order as to its disposal".

4. Admittedly, there is no determination in the said show cause notice that the petitioner is an encroacher and the land in which he is in possession, is required to be resumed. Without such determination, the respondent No.2-Tahsildar, Makloor Mandal, Nizamabad District, directed the Girdawar, Makloor to carry out the eviction and take possession of the subject land and retain in proper custody and forfeit the material available over the said land pending Collector's order. The direction given to the Girdawar, Makloor, is also erroneous. Therefore, the show cause notice No.B/570/2020, dated 26.09.2020 issued by the respondent No.2-The Tahsildar, Makloor Mandal, to the petitioner, is liable to be set aside.

6. Under these circumstances, the impugned notice No.B/570/2020, dated 26.09.2020 issued by the respondent No.2-The Tahsildar, Makloor Mandal, to the petitioner, is hereby set aside. The respondent No.2-Tahsildar, Makloor Mandal, Nizamabad District, is entitled to issue fresh notice to the petitioner and proceed in accordance with law.

7. Accordingly, this Writ Petition is ordered. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Principal Secretary, Municipal Administration and Urban Development, State of Telangana, Secretariat, Hyderabad.
2. The Tahsildar, Makloor Mandal, Nizamabad District.

10/10/2020

3. The District Collector, Nizamabad.
 4. The Commissioner, Nizamabad Municipal Corporation, Nizamabad District.
 5. The Deputy Executive Engineer, Project Sub Division Armoor, Nizamabad.
 6. One CC to Sri Kowturu Pavan Kumar, Advocate [OPUC]
 7. Two CCs to GP for Municipal Administration and Urban Development, High Court for the State of Telangana at Hyderabad. [OUT]
 8. Two CCs to GP for Revenue, High Court for the State of Telangana at Hyderabad. [OUT]
 9. One CC to Sri V. Satyam Reddy, SC for Nizamabad Municipal Corporation [OPUC]
 10. Two CD Copies
- CHR 11. Two CCs to GP for irrigation and command area Development Department

Qm

HIGH COURT

DATED:29/12/2020

ORDER

W.P.No.19856 of 2020



ORDERING THE WRIT PETITION
WITHOUT COSTS

SSV
15 copies
Dt 20/01/2021