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

FRIDAY, THE ELEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION NO: 22755 OF 2020

Between:

1. Sri Manthani Laxman, S/o Dammanna, aged about 48 years Occ. Washerman,
2. Sri Sakali Kishore @ S.N.Gangadhar, S/o Dammanna, aged about 50 years Occ. washerman,

Both are R/o Ankapoor Village, Armoor Mandal and Municipality, District Nizambad.

...PETITIONERS

AND

1. State of Telangana, rep by its Principal Secretary, Municipal Administration and Urban Development department, Secretariat, Hyderabad.
2. The Municipal Council, Armoor rep by its Commissioner, Armoor, Nizamabad District.
3. S.Pramod, S/o S.Narayana, Aged about 40 years, R/o H.No.1-18/5/1, Perkit, Armoor Municipality, Nizamabad District.

...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 writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent No.2 in issuing the final notice vide G1/TP/333/2019 dated 4/12/2019 directing the petitioners to remove construction portion within 24 hours without any prima facie evidence without considering the objections dated 13/11/2020, without any provision of law, without specifing the construtions as arbitrary and illegal and also violation of the principles of natural Justice and also violative of the Article 14, 16 and 300A of Constitution of India and also contrary to the building permissions and plan granted by the Gram Panchayat vide No. 915/2018 dated 3/12/2018 and proc No. 916/2018 dated 3/12/2018 respectively and also contrary to the order passed by the Honourable court in WP No. 6979/2020 dated 29/5/2020 and consequently set aside the same

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 in pursuance of the final notice vide No. G1/TP/333/2019 dated 4/12/2020 issued by the respondent No.2 pending disposal of the main writ petition

Counsel for the Petitioners: SRI GUDI MADHUSUDHAN REDDY

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

Counsel for Respondent No. 2: SRI N. PRAVEEN KUMAR, SC FOR MUNICIPALITIES

Counsel for Respondent No. 3: ----

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.22755 of 2020

ORDER:

Heard the learned counsel for the petitioners, learned Government Pleader for Municipal Administration and Urban Development for respondent No.1, and Sri N. Praveen Kumar, learned Standing Counsel for respondent No.2. With their consent, the Writ Petition is disposed of at the stage of admission itself.

This writ petition is filed questioning the action of respondent No.2 in issuing the final notice, dated 04.12.2020, directing the petitioners to remove the construction portion mentioned therein within 24 hours, without *prima facie* evidence and without considering the objections submitted by the petitioners on 13.11.2020.

Learned counsel for the petitioners has stated that on an earlier occasion, respondent No.2 has issued the notice dated 29.12.2019 and the petitioners have challenged same by way of filing W.P.No.6979 of 2020, and this Court *vide* order dated 29.05.2020, while setting aside the said notice, has passed the following order:

> *"The Writ Petition is accordingly, allowed setting aside the notice dated 29.12.2019 and giving liberty to the Municipal authorities to issue notice specifying the encroachments which the petitioners allegedly have been made, with a further direction to remove the same."*

Thereafter, respondent No.3 herein filed W.P.No.17949 of 2020 alleging that the petitioners herein are making illegal/unauthorised constructions, and this Court *vide* order dated 19.10.2020 has passed the following interim order:

> *"In the meanwhile, respondent No.3/the Commissioner, Armoor Municipality, shall consider the representation, dated 01.10.2020, made by the petitioner against the illegal constructions being made by respondent Nos.4 and 5, and pass necessary orders, after putting the petitioner as well as respondent Nos.4 and 5 on notice and affording them an opportunity of hearing. A copy of the order passed by respondent No.3 shall be communicated to the parties. If the allegations made against respondent Nos.4 and 5 are found to be true and correct, the official respondents shall take immediate action against them, strictly in accordance with the procedure established under the law."*

Learned counsel for the petitioners states that without considering the explanation submitted by the petitioners on 13.11.2020, respondent No.2 has issued the impugned final notice dated 04.12.2020, which is not only contrary to the principles of natural justice but also against the order dated 19.10.2020 passed by this Court in W.P.No.17949 of 2020, wherein this Court has directed the official respondents to put the parties on notice and afford them an opportunity of hearing before passing necessary orders.

Learned Standing Counsel, on instructions, has stated that the official respondents shall consider the explanation submitted by the petitioners on 13.11.2020 and will follow the earlier order dated 19.10.2020 passed by this Court in W.P.No.17949 of 2020, and take necessary action strictly in accordance with law.

In view of the above made submissions, the writ petition is disposed of directing the official respondents to consider the explanation submitted by the petitioners on 13.11.2020 and take necessary action as per the directions issued by this Court on 19.10.2020 in W.P.No.17949 of 2020, by affording an opportunity of hearing. Till such time the final orders are passed by respondent

No.2, the official respondents shall not interfere with the possession of the petitioners. A copy of the order passed shall be communicated to the parties.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

Sd/- N. CHANDRA SHEKAR REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development department, State of Telangana Secretarait, Hyderabad.
2. The Commissioner, Municipal Council, Armoor, Armoor, Nizamabad District.
3. One CC to Sri Gudi Madhusudhan Reddy Advocate [OPUC]
4. Two CCs to GP for Municipal Administration & Urban Development, High Court for the State of Telangana (OUT)
5. One CC to Sri N. Praveen Kumar, Standing Counsel for Municipalities(OPUC) **(Along With a copy of Order dated 19.10.2020 in W.P.No.17949 of 2020)**
6. Two CD Copies

MBC

11/12

HIGH COURT

AAR,J

DATED: 11/12/2020



ORDER

WP.No.22755 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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AVS
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Exp10
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[3167]

(SHOW CAUSE NOTICE BEFORE ADMISSION)
HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

MONDAY, THE NINETEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY

PRESENT:
THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION NO: 17949 OF 2020

Between:

Sadak Pramod, S/o Sadak Narayana,

....Petitioner

AND

1. The State of Telangana, Rep by the Principal Secretary, (Municipal Administration Department), Secretariat, Hyderabad.
2. The District Collector, Nizamabad District, Nizamabad.
3. The Commissioner, Armoor Municipality, Armoor, Nizamabad District.
4. Manthani Laxman, S/o Dammanna, age about 50 years, R/o Ankapoor, Armoor Mandal, Nizamabad District.
5. Sakali Kishore, S/o Dammanna, age about 32 years, R/o Ankapoor, Armoor Mandal, Nizamabad District.

....Respondents

WHEREAS the Petitioner above named through his Advocate SRI N.SRUSHMAN REDDY presented this 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, order, or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent in not taking any action on illegal /unauthorized construction of building being constructed on the road by 4th and 5th Respondents in survey Nuimber 459/1 and 461 situated at Perkit, Armoor Municipality as illega , arbitrary, unconstitutional, cuntrary to the provisions of The Municipal Act and bad in law and consequently direct the 3rd Respondent to take necessary action by removing the illegal/unauthorised construction on the road by the Respondents No. 4 and 5.;

AND WHEREAS the High Court upon perusing the petition and affidavit filed herein and upon hearing the arguments of Sri.N.SRUSHMAN REDDY Advocate for the Petitioner, directed issue of notice to the Respondents herein to show cause as to why this WRIT PETITION should not be admitted.

You viz:

1. The Principal Secretary, (Municipal Administration Department), State of Telangana, Secretariat, Hyderabad.
2. The District Collector, Nizamabad District, Nizamabad.
3. The Commissioner, Armoor Municipality, Armoor, Nizamabad District.
4. Manthani Laxman, S/o Dammanna, R/o Ankapoor, Armoor Mandal, Nizamabad District.
5. Sakali Kishore, S/o Dammanna, R/o Ankapoor, Armoor Mandal, Nizamabad District,

are directed to show cause on or before 24.11.2020 to which date the case stands posted as to why in the circumstances set out in the petition and the affidavit filed therewith (copy enclosed) this WRIT PETITION should not be admitted.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the 3rd respondent to immediately stop the illegal/unauthorised construction of building on the road being constructed by the Respondents No. 4 and 5 in survey Nuimber 459/1 and 461 situated at Perkit.

54

Armoor Municipality pending disposal of the above WP No.17949 of 2020, on the file of the High Court.

The Court made the following Order:

Notice before admission.

Learned counsel for the petitioner is directed to take out personal notice to respondent Nos.4 and 5 and file proof of service into Registry.

Learned Standing Counsel appearing for Armoor Municipality seeks time to file counter.

Post on 24.11.2020.

In the meanwhile, respondent No.3-the Commissioner, Armoor Municipality, shall consider the representation, dated 01.10.2020, made by the petitioner against the illegal constructions being made by respondent Nos.4 and 5, and pass necessary orders, after putting the petitioner as well as respondent Nos.4 and 5 on notice and affording them an opportunity of hearing. A copy of the order passed by respondent No.3 shall be communicated to the parties. If the allegations made against respondent Nos.4 and 5 are found to be true and correct, the official respondents shall take appropriate action against them, strictly in accordance with the procedure established under the law.

Sd/- USHA LAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The Principal Secretary, (Municipal Administration Department), State of Telangana, Secretariat, Hyderabad.
2. The District Collector, Nizamabad District, Nizamabad.
3. The Commissioner, Armoor Municipality, Armoor, Nizamabad District.
4. Manthani Laxmi, S/o Dammanna, R/o Ankapoor, Armoor Mandal, Nizamabad District.
5. Sakali Kishore, S/o Dammanna, R/o Ankapoor, Armoor Mandal, Nizamabad District. (RR 1 to 5 by RPAD along with copy of petition and affidavit)
6. One CC to SRI.N SRIJISHMAN REDDY Advocate [OPUC]
7. Two CCs to GP FOR MUNICIPAL ADMN URBAN DEV [SC] ,High Court Of Judicature at Hyderabad. [OUT]
8. One spare copy