

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

(Special Original Jurisdiction)

**TUESDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 986 OF 2021

Between:

Mohd. Qamar Ahmed, S/o. Late Mohd. Fayazuddin, Aged about 61 years,
Occ. Retd. Employee, R/o. H.No.1-3-76/D/AA, Rajendernagar Street,
Backside of BSNL Office (TNGOs Colony), Mahabubnagar.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Department of Municipal Administration, Secretariat, Secretariat Buildings, Hyderabad.
2. The District Collector, Mahabubnagar, Mahabubnagar District.
3. The Commissioner, Mahabubnagar Municipality, Mahabubnagar District.
4. K. Subhanji, S/o. K. Ramji, Aged about 38 years, Occ. Business, R/o. H.No.1-3-36/C, Plot No.1, Rajendernagar Street, Backside of BSNL Office, (TNGOs Colony), Mahabubnagar.

...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 any order or orders or direction or writ or writs more particularly one in the nature of writ of Mandamus declaring the proceedings No.G1/E-684521/MBNR/2020, Dt.13/11/2020 issued by the 3rd respondent is as illegal, arbitrary, violation of the principles of the natural justice and set aside the same, consequentially direct the respondents No.2 and 3 to take action on the representations made by the petitioner on Dt.22/07/2020, Dt.20/08/2020, Dt.26/08/2020, Dt.27/08/2020, Dt.24/09/2020, Dt.19/10/2020 and Dt.23/10/2020 as per the law in force, in the interest of justice and equity.

IA NO: 1 OF 2021

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 direct the respondents No.2 and 3 to take action on the representations made by the petitioner on Dt.22-07-2020, Dt.20-08- 2020, Dt.26-08-2020, Dt.27-08-2020, Dt.24-09-2020, Dt.19-10-2020 and Dt.23-10-2020 as per the law in force, pending disposal of the above writ petition, in the interest of justice and equity.

Counsel for the Petitioner:SRI. CH.JANARDHAN REDDY

Counsel for the Respondent No.1: GP FOR MCPL ADMN URBAN DEV

Counsel for the Respondent No.2: GP FOR REVENUE

Counsel for the Respondent No.3: SRI N.PRAVEEN KUMAR(SC FOR MC)

Counsel for the Respondent No.4: SRI NP.SHASHI KIRAN

The Court made the following: ORDER

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.No.986 of 2021

ORDER

This writ petition is filed questioning the proceedings No.G1/E-684521/MBNR/2020, dated 13-11-2020 issued by respondent No.3 as illegal and arbitrary and consequently direct respondent Nos.2 and 3 to take action on the representations made by petitioner on 22-07-2020, 20-08-2020, 26-08-2020, 27-08-2020, 24-09-2020, 19-10-2020 and 23-10-2020 as per law in force.

2. Learned counsel for the petitioner Sri Ch.Janardhan Reddy submits that the petitioner has purchased Plot No.6, admeasuring 153 sq. yards situated at TNGO's colony, Rajendranagar Street, Mahabubnagar Town, by way of registered sale deed dated 25-08-1988 and constructed a house therein and residing in it along with his family. He submits that the petitioner has made several complaints and representations to the respondents bringing notice to them with regard to construction of a compound wall by respondent No.4 extending 5 feet road leading from plot Nos.1 to 13 and blocked the road towards the two sides of his house without any legal right, but the respondents have not taken any action. He submits that the respondents have issued the impugned proceedings dated 13-11-2020 stating that the earlier W.P.No.10128 of 2020 filed by one Mr. Khaja Nayeemuddin was disposed on 11-08-2020 and in view of the said

orders, respondent Nos.2 and 3 are no way concerned with the disputes between the parties. Learned counsel for the petitioner submits that there is an existing road even as per the sale deed of the petitioner and all the sale deeds of other neighbours and the respondents have failed to take the same into consideration and passed the impugned order stating that the this Court in W.P.No.10128 of 2020 has passed the orders and hence, the petitioner has come up before this Court.

3. Learned Standing Counsel for respondent No.3 Mr. N. Praveen Kumar submits that the case of the petitioner is that as per the master plan, there is a 5 feet road and according to the respondent Municipality, there is no such existing road and the Municipality has an obligation to protect the public road as per the provisions of the Telangana Municipalities Act, 2019 and according to them, there is no 5 feet road as per their master plan. He submits that the petitioner has to file a civil suit and his remedy is elsewhere but not before the Municipal Authorities and they have no obligation to decide the disputes between the petitioner and the unofficial respondent No.4. He has also relied on the orders of this Court in W.P.No.10128 of 2020 dated 11-08-2020, wherein this Court has observed as under;

"In the present case on hand, though the contention of the petitioner is that the 5th respondent has encroached upon and occupied the passage of 5/200 size as stated supra, neither there is an averment in the writ petition that the said passage is a 'public street' as defined under the Act, nor there

is any material placed before this Court to the effect that the said passage is a 'public street' mandating the municipal authorities to take action in terms of Section 185 of the Act. The only piece of material placed by the petitioner before this Court is the sale deed through which respondent No.5 came to acquire the property and the plan (sketch) attached to the sale deed.

A conjoint reading of various provisions in the Telangana Municipalities Act, 2019, makes it clear that the responsibility of the authorities under the Telangana Municipalities Act, 2019 with respect to removal of encroachments/obstructions is restricted to 'public streets', thus essentially leaving it open for the respective parties/individuals to agitate their grievance with respect to 'private streets' as a civil dispute before the appropriate civil Court either under Easements Act or Specific Relief Act".

In view of the said order, the respondents have issued the impugned proceedings and there is no illegality warranting interference of this Court.

4. Learned counsel for the unofficial respondent No.4 Sri P. Shashi Kiran submits that in spite of the orders of this Court, repeatedly the petitioner is making representations and on such representations, the official respondents are time and again interfering and harassing the unofficial respondent No.4.

5. This Court, in W.P.No.10128 of 2020 dated 11-08-2020 has dealt with the issue and gave a categorical finding that it is not a public road, and as per the provisions of the Telangana Municipalities Act, the respondents have no authority to deal with it and if at all the

petitioner has any grievance, he has remedy to approach the civil Court. The petitioner admittedly has not questioned the said order and the same has attained finality and now again in the second round of litigation, he has approached the respondents and the respondents, in the light of the orders passed by this Court in W.P.No.10128 of 2020 dated 11-08-2020 has stated that the respondent Municipality is not concerned with the said issue and the petitioner can approach the competent civil Court. In fact filing this kind of writ petition is nothing but a pure abuse of process of law without even questioning the orders passed by this Court and in the same lines, the Municipality has passed the impugned order, and without any legally tenable grounds, the petitioner has come up before this Court. Hence, this Court finds no reason to interfere with the order impugned.

6. Accordingly, the Writ Petition is dismissed. No order as to costs.

7. Miscellaneous petitions, if any pending in this writ petition, shall stand dismissed.

//TRUE COPY//

SDI-SHYLESHI
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. One CC to SRI. CH JANARDHAN REDDY Advocate [OPUC]
2. Two CCs to GP FOR MCPL ADMN URBAN DEV ,High Court for the State of Telangana. [OUT]
3. Two CCs to GP FOR REVENUE,High Court for the State of Telangana. [OUT]
4. One CC to SRI. N.PRAVEEN KUMAR (SC FOR MC), Advocate [OPUC]
5. One CC to SRI. P.SHASHI KIRAN, Advocate [OPUC]
6. Two CD Copies.
7. One Spare Copy.

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SB

HIGH COURT

DATED:26/07/2022

ORDER

WP.No.986 of 2021



DISMISSING THE WP
WITHOUT COSTS.

(10)
MA
11/8/22