

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

MONDAY, THE EIGHTEENTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 6097 OF 2022

Between:

1. Malothu Purnima, W/o. Mangya, Aged about 45 years, Occ. Housewife, R/o. H.No. 6-1-92, V.D.N Colony, KhanaDuram Haveli, Khammam Town
2. Malothu Balu Naik, S/o. Jethya, Aged about 41 years, Occ. Agriculture, R/o. H.No. 10-57, Mangalibanda Thanda, Tirumalayapalem Mandal, Khammam District.

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary, Roads and Buildings Department, Secretariat, Hyderabad.
2. The Executive Engineer, Roads and Buildings Division, Khammam Town, Khammam.
3. The Deputy Executive Engineer, Roads and Buildings Sub-Division, Khammam.
4. The Khammam Municipal Corporation, Khammam District, Rep. by its Commissioner

...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, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd and 3rd respondents in attempting to evict the petitioners from H.No. 15-11-92 (Old No. 6-1-92) situated in Khanapuram Haveli, Khammam Urban, Khammam District, admeasuring 330 sq. yards by erecting a board claiming that the property belongs to the Road and Buildings Department without issuing any prior notice or following any due procedure of law as being arbitrary, illegal, high handed and contrary to the principles of natural justice and in violation of Article 14 and 300-A of the Constitution of India and consequently direct the 2nd and 3rd respondents to remove the board erected in H.No. 15-11-92 (Old No. 6-1-92) situated in Khanapuram Haveli, Khammam Urban, Khammam District, admeasuring 330 sq. yards and not to evict or interfere in the petitioners possession of the above property, in the interest of justice

IA NO: 3 OF 2022

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 amend the cause title of W.P.No.6097 of 2022 and in the accompanying I.As. by substituting the name Malothu Balu Naik S/o. Jethya with Banothu Balu Naik S/o. Jethya as the 2nd petitioner in W.P.No. 6097 of 2022 and in the I.As.

IA NO: 2 OF 2022

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 2nd and 3rd respondents to remove the board erected in H.No. 15-11-92 (Old No. 6-1-92) situated in Khanapuram Haveli, Khammam Urban, Khammam District, admeasuring 330 sq. yards, pending disposal of the writ petition.

IA NO: 1 OF 2022

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 2nd and 3rd respondents not to dispossess the petitioners' from H.No. 15-11-92 (Old No. 6-1-92) situated in Khanapuram Haveli, Khammam Urban, Khammam District, admeasuring 330 sq. yards and not to interfere in the petitioners' possession of the above property, pending disposal of the writ petition.

Counsel for the Petitioners : SRI. C SHARAN REDDY

Counsel for the Respondent No. 1 to 3 : GP FOR ROADS AND BUILDINGS

Counsel for the Respondent No. 4 : SRI. M. BHAGYASRI, SC FOR GHMC

The Court made the following : ORDER

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.No.6097 of 2022

ORDER

This writ petition is filed questioning the action of respondent Nos.2 and 3 in attempting to evict the petitioners from H.No.15-11-92 (old No.6-1-92) admeasuring 330 sq. yards, situated at Khanapuram Haveli, Khammam Urban, Khammam District, by erecting a board claiming that the property belongs to the Roads and Buildings Department, without issuing any prior notice and without following due procedure of law, as illegal and arbitrary.

2. Heard learned counsel for the petitioners Mr. C. Sharan Reddy, learned Government Pleader for Roads and Buildings for respondent Nos.1 to 3 and learned Standing Counsel for respondent No.4 Ms. M. Bhagyasri.

3. Learned counsel for the petitioners submits that the petitioners have purchased the aforesaid property by way of a registered sale deed dated 04.02.2021 and earlier, one Malothu Kapuriya had constructed a small house in the property and in the year 1991-92, the Khanapuram Grampanchayat had allotted H.No.6-1-54/1 to the said house and since then, they have been paying the property tax, electricity and water bills. He submits that when the Grampanchayat becomes Municipality, H.No.6-1-92 was assigned and when it became a Corporation in 2014, another H.No.15-11-92 was assigned to the

said house. Learned counsel further submits that after purchase of the said property, the petitioners, after obtaining permission from the Khammam Municipal Corporation vide permit dated 19.07.2021, have demolished the existing structure and started new construction, and when an article was published in a newspaper claiming that the subject property is Government land, respondent Nos.2 and 3, without issuing any notice, have erected a board on their land on 17.12.2021 claiming it to be Government Land belonging to the Roads and Buildings Department. Learned counsel further submits that when the property has assigned house numbers and when the petitioners are paying taxes, respondent Nos.2 and 3 without following any procedure and in a highhanded manner have erected the board and hence, the petitioners are constrained to approach this Court.

4 .Learned Assistant Government Pleader for Roads and Buildings, while reiterating the counter averments, submits that the subject property belongs to Roads and Buildings Department. He submits that the Revenue Divisional Officer, Khammam, vide letter dated 15.11.2021, has informed that during enquiry it is revealed that the scheduled land is bounded by the boundaries East 40' feet road, West:LIC quarters open land, North: Honourable MLA camp office, 112-KAC, South:Sunrise apartments and the schedule land is in the custody of writ petitioners and at present, the scheduled land is open land and the land to an extent of Ac.0.02½ gts in Sy.No.272 belongs to R & B Department. He further submits that building permission was

given by respondent No.4 vide letter dated 17.08.2021 under TS-bPASS and in the sale deed of the petitioners, survey number is not mentioned. Learned Assistant Government Pleader further submits that the land in Sy.No.272 pertains to R & B Department and they have resumed and erected the board and there is no illegality in the action of the respondents.

5. Whether the subject land belongs to petitioners or Roads and Buildings Department, the respondents have categorically admitted in their counter that the petitioners are in possession of the property and they have resumed and erected a board. The case of the petitioners is that they are in occupation of the land and admittedly house number was allotted and even the Municipality has also granted permission to them for construction of the house. If at all the land belongs to R & B Department, respondents ought to have issued a notice to the petitioners and they should have acted in accordance with law. This action of the respondents is illegal and arbitrary. Hence, taking into consideration the sale deeds, house tax receipts, and the permission granted by the Municipality, *prima facie* it appears that the petitioners are in occupation of the property and the respondents cannot interfere with the possession and enjoyment of the petitioners without following due process of law.

6. Accordingly, the Writ Petition is disposed of. Respondent Nos.2 and 3 are directed to remove the board erected in the subject property. No order as to costs.

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

SD/-G.SIREESHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Executive Engineer, Roads and Buildings Division, Khammam Town, Khammam.
2. The Deputy Executive Engineer, Roads and Buildings Sub-Division, Khammam.
3. One CC to SRI. C. SHARAN REDDY, Advocate [OPUC]
4. Two CCs to GP FOR ROADS AND BUILDINGS, High Court for the State of Telangana at Hyderabad. [OUT]
5. Two CD Copies.
6. One Spare Copy.

KPV 

BS

HIGH COURT

DATED : 18/04/2022



ORDER

WP.No. 6097 of 2022

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

(8)
MA
15/6/22