

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

**MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 25868 OF 2021

Between:

Trendset Winz Owners Welfare Association, D.No.2-58/TW, Survey No. 143, Nanakramguda Serlingampally Mandal, Ranga Reddy District, Hyderabad - 500 008. Rep. by its General Secretary, M. Srinivas Reddy, S/o M. Nagi Reddy, Aged 53 years.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.
2. Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tankbund, Hyderabad.
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation, West Zone, Serlingampally, Ranga Reddy District, Hyderabad.
4. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Circle No. XX, Serlingampally, Ranga Reddy District, Hyderabad.
5. The Station House Officer, Gachibowli Police Station, Cyberabad, Hyderabad.
6. S. Mutyam Reddy, S/o Not known, R/o 2/58/1/A, Nanakramguda Village, Financial District, Serlingampally Mandal, Ranga Reddy District, Hyderabad - 500 008.

...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, Order or direction or any other appropriate Writ declaring the action of the respondents 2 to 4 in not initiating any action for removal of the illegal and unauthorized construction of Tin Sheet temple being constructed by the 6th respondent by encroaching the open place left for 60 feet road abutting Trendset Winz residential complex situated at Survey No. 143, Nanakramguda Village, Serlingampally Mandal, Ranga Reddy District,

Hyderabad - 500 008 as arbitrary, illegal being violative of Art. 21 of the Constitution of India and also contrary Municipal Corporation Rules and consequently direct the respondents 2 to 4 to remove the said illegal and unauthorized construction forthwith.

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 2 to 4 to remove the illegal and unauthorized construction of Tin Sheet temple being constructed by the 6th respondent by encroaching the open place left for 60 feet road. abutting Trendset Winz residential complex situated at Survey No. 143, Nanakramguda Village, Serlingampally Mandal, Ranga Reddy District, Hyderabad - 500 008 forthwith pending disposal of the Writ Petition.

Counsel for the Petitioner : SRI. K VENUGOPAL REDDY

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

**Counsel for the Respondent Nos. 2 to 4 : SRI SAMPATH PRABHAKAR REDDY
SC FOR GHMC**

Counsel for the Respondent No.5 : AGP FOR HOME

Counsel for the Respondent No.6 : SRI G VIPLAV REDDY, ADVOCATE

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.25868 of 2021

ORDER:

This writ petition is filed questioning the action of respondent Nos.2 to 4 in not initiating any action for removal of the illegal and unauthorized construction of tin sheet temple being constructed by respondent No.6 by encroaching the open place left for 60 feet road abutting Trendset Winz residential complex, situated at Sy.No.143, Nanakramguda Village, Serlingampally Mandal, Ranga Reddy District, Hyderabad, as illegal and arbitrary.

2. Heard learned counsel for the petitioner Mr. K. Venugopal Reddy, learned Government Pleader for Municipal Administration and Urban Development for respondent No.1, learned Standing Counsel Mr. Sampath Prabhakar Reddy, for respondent Nos.2 to 4, learned Assistant Government Pleader for Home for respondent No.5 and Mr. G. Viplav Reddy, learned counsel for respondent No.6.

3. Learned counsel for the petitioner submits that a tin sheet temple is being constructed by respondent No.6 by encroaching upon the place left for 60 feet road margin abutting the compound wall of the petitioner's complex situated at Nanakramguda Village, Serlingampally Mandal, Ranga Reddy District. He submits that the 60 feet road, which

is abutting the petitioner's residential complex, is extremely busiest road and heavy traffic area connecting road to financial District from the main city and it is also an approach road of the petitioner's apartment. He submits that respondent No.6 has illegally occupied the open place left out for 60' feet road and constructed a tin sheet temple with temporary structure causing much inconvenience to the residents of their apartments and also to the public. Learned counsel further submits that the petitioner has given a complaint, but no action has been initiated for removal of the said illegal and unauthorized constructions made on the road portion. He submits that the Corporation has legal obligation to initiate necessary action for removing the illegal constructions as per the provisions of the Telangana Municipalities Act, 2019. Learned counsel has also relied upon several judgments passed by the Honourable Apex Court and submits that when a temple is constructed in a public place encroaching 60 feet road, the respondents ought to have taken action. He relied on the judgment of the Apex Court in **Union of India vs. State of Gujarat and others** in S.L.A (Civil) No.8519 of 2006, wherein the Apex Court observed that no unauthorized construction shall be carried out or permitted in the name of Temple, Church, Mosque or Gurudwara etc., on public streets, public parks or other public places etc., and in respect of the unauthorized construction of religious nature which has already taken place, the State Governments and the Union

and the Union Territories shall review the same on case to case basis and take appropriate steps as expeditiously as possible. Initially, an interim direction was granted and later, it was also directed to all the High Courts to supervise the said issues and all those cases were transferred to the respective High Courts. He further submits that by order dated 29-09-2019, all the District Collectors and Magistrates/Deputy Commissioners in charge of the Districts are directed to ensure that there is total compliance of the order passed therein. Learned counsel submits that in view of the directions issued by the Honourable Apex Court, the respondents are bound to comply with the same and even according to the respondents in their counter, it is stated that it is an old structure and the petitioner has filed photographs showing that the constructions are made recently. Hence, he submits that the respondents have failed to act in accordance with law.

4. Learned Standing Counsel for respondent Nos.2 to 4 submits that the temple is in existence from the last 40 years and it is a small temple and recently, after receiving the complaint, the respondents have visited the site and found that respondent No.6 has extended the same by constructing a tin sheet shed. However, when a query from this Court as to whether the said temple is constructed on the road, learned Standing Counsel, on instructions from the Deputy City Planner

of Circle.20, 4th respondent herein, submits that the temple is constructed by encroaching the road.

5. On the other hand, learned counsel Mr. G. Viplav Reddy, appearing on behalf of respondent No.6, submits that the temple is existing from the last 40 years and it is not causing any inconvenience to the petitioner's Association and the petitioner is not authorized to file this writ petition.

6. The instructions of the learned Standing Counsel as well as the submissions made by the Assistant City Planner that the temple is constructed on the road strengthens the case of the petitioner and in the counter also, the respondents have admitted that earlier it was a small temple and now they have made certain improvements in the said structure. In view of the directions issued by the Apex Court in **Union of India's** case, when the religious structures are constructed on the road, the respondent Municipality has an obligation to take appropriate action in accordance with law. Hence, the respondents shall consider the representation of the petitioner dated 03-03-2021 and initiate appropriate action in accordance with law within a period of six weeks from the date of receipt of a copy of this order. Respondent No.5 shall also provide police protection if required for removal of encroachment.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

8. Miscellaneous Applications, if any pending in this writ petition, shall stand closed.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, State of Telangana, Hyderabad.
2. The Commissioner, Greater Hyderabad Municipal Corporation, Tankbund, Hyderabad.
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation, West Zone, Serlingampally, Ranga Reddy District, Hyderabad.
4. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Circle No. XX, Serlingampally, Ranga Reddy District, Hyderabad.
5. The Station House Officer, Gachibowli Police Station, Cyberabad, Hyderabad.
6. One CC to SRI. K VENUGOPAL REDDY, Advocate. [OPUC]
7. One CC to SRI. SAMPATH PRABHAKAR REDDY, SC FOR GHMC.[OPUC]
8. One CC to SRI. G VIPLAV REDDY, Advocate. [OPUC]
9. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana at Hyderabad. [OUT]
10. Two CCs to GP FOR HOME, High Court for the State of Telangana at Hyderabad. [OUT]
11. Two CD Copies
12. One Spare Copy

SB

HV

HIGH COURT

DATED:13/06/2022



ORDER

WP.No.25868 of 2021

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

15
14/7/22
Jtvs