

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

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 30005 OF 2022

Between:

Sri Vigneswara Co-operative Housing Society Ltd, Registered under Cooperative Societies Act, With Reg. No. TA/486, Rep. by its. President, K.Vidwan Reddy, S/o. Rajireddy, Aged about 81 years, Occ- Social Service, R/o. 6/T, Saraswathi Nagar, Hyderabad, Telangana State.

...PETITIONER

AND

1. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Lower Tank Bund, Hyderabad City- T.S.
2. The Zonal Commissioner, Hyderabad Municipal Corporation, Circle-7B, Khairatabad, Hyderabad City-T.S.
3. The Chief City Planner, GHMC, Lower Tank Bund, Hyderabad City-T.S.
4. M/s. Mahaveer Estate Projects., A Partnership Firm having its Regd. Office at H.No.8-2-277/B/1, Road No.2, Banjara Hills, Hyderabad-500 034, Rep. by its Partner (1) Sri. SHENISHETTY KRISHNA MURTHY, (2) Sri. KOTHAPALLI BHASKAR RAMESH KUMAR

...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 so, a Writ in the nature of Mandamus, by declaring the INACTION of the Respondents 1 to 3 in not considering the Complaint dated-07-02-2022 and 01-04-2022 about the illegal constructions made on the property in Sy.Nos.136 to 144, particularly Sy.No.136/A and 138/B, in all admeasuring 24,429.50 sq.yards and covered by various alleged Municipal Nos.13-6-445/1, 445/2, 445/A/2, 445/A/2/1, 445/A/3, 445/A/3/1, 445/A/3/2, 445/A/3/3 and 445/A/4, out of the said total extent of landed property in all admeasuring Ac.29-39 guntas at Gudimalkapur, Golconda Mandal, as arbitrary, illegal, high-handed and opposed to the principles of natural justice and

consequentially to direct the Respondents to prevent the 4th Respondent from making construction activity on the above said property.

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 Respondents to stop the illegal and high-handed construction on the property in Sy.Nos.136 to 144, particularly Sy.No.136/A and 138/B, in all admeasuring 24,129.50 sq.yards and covered by various alleged Municipal Nos.13-6-445/1, 445/2, 445/A/2, 445/A/2/1, 445/P13, 445/A/3/1, 445/A/3/2, 445/A/3/3 & 445/A/4, out or the said total extent of landed property in all admeasuring Ac.29-39 guntas at Gudimalkapur, Golconda Mandal, by the 4th Respondent during the pendency of the above Writ Petition, and may pass such other order or orders as this Honble Court may be pleased to deem fit and proper in the interest of justice and equity. pending disposal of the above writ petition.

Counsel for the Petitioner : SRI. G VASANTHA RAYUDU

Counsel for the Respondents 1 To 3 : SAMPATH PRABHAKAR REDDY (SC FOR MUNICIPALITIES)

Counsel for the Respondent No. 4 : NONE APPEARED

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No. 30005 OF 2022

ORDER:

This Writ Petition is filed questioning the inaction of Respondents 1 to 3 in considering the complaints dated 07.02.2022 and 01.04.2022 about the illegal constructions made on the property in Survey Nos. 136 to 144 particularly Survey Nos. 136/A and 138/B, in all admeasuring 24,429.50 square yards and covered by various alleged municipal Nos. 13-6-445/1, 445/2, 445/A/2, 445/A/2/1, 445/A/3, 445/A/3/1, 445/A/3/2, 445/A/3/3 and 445/A/4 out of the said total extent of landed property admeasuring Acs.29.39 guntas at Gudimalkapur, Golconda Mandal.

2. Learned counsel for the petitioner Sri G. Vasantha Rayudu submits that the petitioner has given representations to the respondent Corporation on 07.02.2022 and 01.04.2022 about the illegal constructions made on the subject property. He submits that a notice was also issued on 01.04.2022 by the petitioner society wherein it is mentioned about the series of litigation which has went up to the Supreme Court and later the same was remanded and after the remand, the suit was dismissed and Appeal is pending before this Court. According

to the learned counsel for the petitioner, when the matter is *subjudice*, the official respondents ought not to have granted permission to the unofficial respondent.

3. Sri Peri Prabhakar, learned counsel for the unofficial respondent submits that permission was granted in favour of the unofficial respondent about four or five months ago. He submits that the respondent Corporation looking at the *prima facie* title has granted permission in favour of the unofficial respondent. He submits that the petitioner has suffered a decree and the Appeal is pending consideration and on that ground the respondent Municipality cannot stop granting permission to the unofficial respondent.

4. Heard Sri N. Ashok Kumar, learned Standing Counsel for the respondent Corporation.

5. The Writ Petition is filed seeking consideration of the representations of the petitioner. This Court has perused the representation dated 01.04.2022. In the entire representation, except stating about pending litigation, nothing has been stated. Even the argument of the learned counsel for the petitioner is that because the litigation is pending, the respondent Corporation ought not to have granted permission in favour of the unofficial respondent and the representation of the

petitioner should have been taken into consideration. This Court is not able to appreciate the said contention raised on behalf of the petitioner. In a mechanical manner, whenever a writ petition is filed seeking consideration of the representations, this Court cannot direct the respondents to consider the same. *Prima facie*, in the representation, except stating about pending litigation, the petitioner has not stated how the respondents are bound to consider the same. Particularly while granting permission, the respondents are only concerned with the *prima facie* title and having satisfied with the title they have granted permission. Pending litigation cannot be a ground for stalling the entire process.

6. Hence, this Court finds no reason to direct the official respondents to consider the representations of the petitioner.

7. The Writ Petition is accordingly, dismissed. There shall be no order as to costs.

8. The Miscellaneous Applications, if any shall stand automatically closed.

SD/- N.RAJAGOPAL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Lower Tank Bund, Hyderabad City- T.S.
2. The Zonal Commissioner, Hyderabad Municipal Corporation, Circle-7B, Khairatabad, Hyderabad City-T.S.

3. The Chief City Planner, GHMC, Lower Tank Bund, Hyderabad City-T.S.
4. One CC to SRI. G VASANTHA RAYUDU Advocate [OPUC]
5. One CC to SRI. SAMPATH PRABHAKAR RAO (SC FRO MUNICIPALITIES), Advocate [OPUC]
6. Two CD Copies.
7. One Spare Copy.

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HIGH COURT

DATED:20/07/2022



ORDER

WP.No.30005 of 2022

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HMA
10/30/8/2022