

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

**THURSDAY, THE EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 34950 OF 2022

Between:

1. K.Madhusudhan, S/o.K.Narsaiah, Aged. 63 yrs, Occ. Business
2. Smt.K.Pushpa, W/o.K.Madhusudhan, Aged. 54 yrs, Occ. Business, (Both are R/o.Plot No.13, New City Colony, Bapuji Nagar, New Bowenpally, Secunderabad)

...PETITIONERS

AND

1. The State of Telangana, Rep. By its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.
2. The Deputy Commissioner, Circle -1(Kapra), GHMC, Kushaiguda, Hyderabad.
3. Sri Dr D.Balasubramanyam, S/o.Late D.Dorairajan, Aged about 83 years, Occ. Retd. Service, R/o. P.No.40, Sai Enclave Colony, Habsiguda, Hyderabad, Telangana.

...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 speaking order passed by the 2nd respondent vide Proceedings No.481/TPS/C-1/LNZ/GHMC/2022 dated 16/7/2022 without following the procedure under the act in respect of the property bearing Plot No.37 and 38, Ward No.4, Block No.7 in Sy.No's 218/5, 222/5 and 266/10 admeasuring 600 Sq.Yds situated at Sai Enclave, Lane No.3, Habsiguda, Uppal, Medchal Malkajgiri District is illegal, arbitrary, unconstitutional, contrary to law and violation of principals of natural justice and consequently direct the 2nd respondent not to take any coercive steps against the petitioners property bearing Plot No.37 and 38, Ward No.4, Block No.7 in Sy.No's 218/5, 222/5 and 266/10 admeasuring 600 Sq.Yds situated at Sai Enclave, Lane No.3, Habsiguda, Uppal, Medchal Malkajgiri District without following the procedure under the act.

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 respondent not to take any coercive steps against the petitioners house property bearing property bearing Plot No.37 and 38, Ward No.4, Block No.7 in Sy.No's 218/5, 222/5 and 266/10 admeasuring 600 Sq.Yds situated at Sai Enclave, Lane No.3, Habsiguda, Uppal, Medchal Malkajgiri District without following the procedure under the act pending disposal of the main Writ Petition,

Counsel for the Petitioners : SRI. R A CHARY

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

Counsel for the Respondent No. 2 : SRI SAMPATH PRABHAKAR REDDY (SC FOR GHMC)

Counsel for the Respondent No. 3 : -----

The Court made the following: ORDER

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.34950 of 2022

ORDER:

This writ petition is filed seeking the following relief:

" ... to issue a Writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the speaking order passed by the 2nd respondent vide Proceedings No. 481/TPS/C-1/LNZ/GHMC/2022 dated 16.07.2022 without following the procedure under the act in respect of the property bearing Plot No.37 and 38, Ward No.4, Block No.7 in Sy.Nos.218/5, 222/5 and 266/10 admeasuring 600 Sq.Yds situated at Sai Enclave, Lane No.3, Habsiguda, Uppal, Medchal Malkajgiri District is illegal, arbitrary, unconstitutional, contrary to law and violation of principals of natural justice and consequently direct the 2nd respondent not to take any coercive steps against the petitioners property bearing Plot No.37 and 38, Ward No.4, Block No.7 in Sy.Nos.218/5, 222/5 and 266/10 admeasuring 600 Sq. Yds situated at Sai Enclave, Lane No.3, Habsiguda, Uppal, Medchal Malkajgiri District, without following the procedure under the act ..."

2. Sri R.A.Chary, learned counsel for the petitioners, submits that the petitioners have obtained permission for Ground + 2 floors. Thereafter, the petitioners have made construction of 3rd and 4th floors, for that they made an application under BRS and the said application is pending consideration. When the BRS application is pending, the respondent Corporation in a highhanded manner are

interfering with the petitioners' possession and trying to demolish the structure. He submits that the petitioners are constructed Ground + 2 floors with permission and for 3rd and 4th floors, BRS application is pending. Except raising the pillars above the 4th floor, they are not making any construction. Even for removal of the pillars, the petitioners are entitled for a notice. The petitioners have filed a suit in O.S.No.514 of 2022 against the respondent Corporation and there was an order of *status quo* over the petition schedule property till 13.06.2022 and thereafter it was extended till 21.09.2022. He submits that when there are status quo orders, the respondent Corporation cannot interfere with the petitioners' possession.

3. It is an undisputed fact that even in the suit it stated that the petitioners constructed 1st and 2nd floor legally and the 3rd and 4th floors constructed unauthorisedly. The petitioners never stated in the suit about laying the pillars for the 5th floor. Hence, the petitioners cannot take the benefit of the order of the *status quo* passed by the Court below. Even if an opportunity is given to the petitioners to show-cause in this case, he cannot improve his case. This Court is of

the view that no useful purpose would be served by giving notice to petitioners. The petitioners at the first instance already constructed two floors unauthorizedly and approached the Court below by filing an injunction suit and obtained *status quo* orders. Now, the petitioners started again another round of unauthorized construction by laying pillars for the fifth floor. This Court cannot be a mute spectator to this kind of acts on behalf of the petitioners and permit the petitioners to perpetuate the illegality. It appears that the petitioners have no respect to the orders of the Court, after the *status quo* orders passed by the Court below, they have started construction illegally. Following the principles of natural justice and issuing the notice to the effected party is to give an opportunity and to put forth his case. In the facts of this case, no such exercise is required and issuance of notice is not a mere formality. Hence, this Court cannot come to the rescue of the petitioners, who have no respect to the rule of law. The respondent Municipality is at liberty to remove the pillars that are raised above the 4th floor and the petitioners are not entitled for any relief from this Court.

4. With the above observation, the Writ Petition is disposed of.
No order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

SD/-G.SIREESHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Department, State of Telangana, Secretariat, Hyderabad.
2. The Deputy Commissioner, Circle -1(Kapra), GHMC, Kusaiguda, Hyderabad.
3. One CC to SRI. R A CHARY Advocate [OPUC]
4. One CC to SRI, SAMPATH PRABHAKAR REDDY (SC FOR GHMC) [OPUC]
5. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana At Hyderabad. [OUT]
6. Two CD Copies
7. One spare copy

GK

PS

HIGH COURT

DATED:08/09/2022

ORDER

WP.No.34950 of 2022



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

BS
9 VLW
2/12/22