

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

WEDNESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NOS: 42978 AND 42982 OF 2022

W.P.NO: 42978 OF 2022

Between:

1. Mukkram Jah, S/o. Late M.A.Wahab, Aged about 55 years, Occ. Business.
2. Aslam Pasha @ Mohammed Aslam Pasha, S/o. Late M.A.Wahab, Aged about 53 years, Occ. Business,

Both are R/o.H.No.11-4-726, Chilkaiguda, Secunderabad-TS

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary, Municipal Administrative and Urban Development Department, Secretariat, Hyderabad.
2. The Greater Hyderabad Municipal Corporation Hyderabad, Rep. by its Commissioner, Having its office at Tank Bund, Hyderabad-SD/-T.SRINIVAS.
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation, Kukatpally Zone, Having its office at Kukatpally, Hyderabad-TS.
4. The Assistant City Planner, Town Planning Section, Circle No.14-B, Kukatpally, Greater Hyderabad Municipal Corporation Hyderabad, Kukatpally, Hyderabad-TS.

...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 actions of the Respondent Nos.2 to 4 in demanding that the Petitioners should give consent and handover the advance possession of a portion of their Property bearing Municipal No.5-5-137/1 (Old No.5-137/2), in Sy.No.254, admeasuring 244 Sq.Yards, situated at Moosapet Village, Kukatpally Municipality, Balanagar Mandal, Ranga Reddy District-TS, as illegal, arbitrary and in violation of Principles of Natural Justice and also in

violation of Articles, 14, 21 and 300-A of the Constitution of India in the interest of justice.

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 Respondent Nos.2 to 4 not to demolish or dispossess the Petitioners from their Property bearing Municipal No.5-5-137/1 (Old No.5-137/2), in Sy.No.254, admeasuring 244 Sq.Yards, situated at Moosapet Village, Kukatpally Municipality, Balanagar Mandal, Ranga Reddy District-TS, in the interest of justice pending disposal of the writ petition.

Counsel for the Petitioners: SRI MOHD ZIA UL HAQ

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

Counsel for the Respondent Nos.2 TO 4: SRI L.VENKATESHWAR RAO, SC FOR GHMC

W.P.NO: 42982 OF 2022

Between:

M.A.Qurram Pasha, S/o. Late M.A.Wahab, Aged about 50 years, Occ. Business, R/o. H.No.11-1-699/2, Chilkaiguda, Secunderabad-TS.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Municipal Administrative and Urban Development Department, Secretariat, Hyderabad.
2. The Greater Hyderabad Municipal Corporation Hyderabad, Rep. by its Commissioner, Having its office at Tank Bund, Hyderabad-TS.
3. The Zonal Commissioner, Great Hyderabad Municipal Corporation, Kukatpally Zone, Having its office at Kukatpally, Hyderabad-TS.
4. The Assistant City Planner, Town Planning Section, Circle No.14-B, Kukatpally, Greater Hyderabad Municipal Corporation Hyderabad Kukatpally, Hyderabad-TS.

...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 actions of the Respondent Nos.2 to 4 in demanding that the Petitioner should give consent and handover the advance

possession of a portion of his Property bearing Municipal No.5- 5-137/1/A (Old No.5-137/3), in Sy.No.254, admeasuring 244 Sq.Yards, situated at Moosapet Village, Kukatpally Municipality, Balanagar Mandal, Ranga Reddy District-TS, as illegal, arbitrary and in violation of Principles of Natural Justice and also in violation of Articles, 14, 21 and 300-A of the Constitution of India in the interest of justice.

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 Respondent Nos.2 to 4 not to demolish or dispossess the Petitioner from his Property bearing Municipal No.5-5-137/1/A (Old No.5-137/3), in Sy.No.254, admeasuring 244 Sq.Yards, situated at Moosapet Village, Kukatpally Municipality, Balanagar Mandal, Ranga Reddy District-TS, in the interest of justice pending disposal of the writ petition.

Counsel for the Petitioner: SRI MOHD ZIA UL HAQ

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

**Counsel for the Respondent Nos.2 TO 4: SRI L.VENKATESHWAR RAO, SC
FOR GHMC**

The Court made at admission stage the following: COMMON ORDER

HON'BLE SRI JUSTICE C. V. BHASKAR REDDY

WRIT PETITION Nos.42978 and 42982 of 2022

COMMON ORDER:

These writ petitions are filed to declare the action of respondent Nos.2 to 4 in demanding that the petitioners should give consent and handover the advance possession of a portion of their properties bearing Municipal No.5-5-137/1 (Old No.5-137/2) and 5-5-137/1/A (Old No.5-137/3), in Sy.No.254, admeasuring 244 Sq.Yards, situated at Moosapet Village, Kukatpally Municipality, Balanagar Mandal, Ranga Reddy District- TS as illegal, arbitrary and in violation of principles of natural justice and also in violation of Articles 14, 21 and 300-A of the Constitution of India.

2. It is the case of the petitioners that they are the owners and possessors of the subject properties bearing Municipal No.5-5-137/1 (Old No.5-137/2) and 5-5-137/1/A (Old No.5-137/3), in Sy.No.254, admeasuring 244 Sq.Yards, situated at Moosapet Village, Kukatpally

Municipality, Balanagar Mandal, Ranga Reddy District, having purchased the same through Registered Sale Deed dated 08.07.1994. The said properties were assigned municipal number and the petitioners are paying regular house property tax to the Municipal Corporation. It is their further case that there is a drain which is passing through their properties and the respondents want to widen the same from 40 feet to 20 meters. For the said purpose, the respondents without following due process of law in respect of Chapter IV of Act 30 of 2013 are trying to demolish the structures of the petitioners, even though the same have been assessed to property tax with valid ownership documents.

3. A counter affidavit has filed on behalf of respondent Nos. 2 to 4 stating that it is the option of the petitioners to give consent for acquisition of their land or not by following due process of law. If the petitioners are not willing to give consent and handover the referred portion of their properties voluntarily, the respondents will take

necessary steps for acquisition of land by following due process of law. If the petitioners are willing to give consent and handover the required portion of their properties, the respondents will give TDR certificate etc., as per law. In case the land is acquired by following the due process of law, the petitioners will automatically get compensation as fixed by the concerned authority under law. It is further stated that the respondents being statutory authority will strictly follow due process of law before initiating any action.

4. In view of the respondents giving an undertaking by way of a counter affidavit and with the consent of both the parties, these writ petitions are disposed of at admission stage with following direction.

5. The respondents are directed not to evict the petitioners forcefully without following due process of law. If the petitioners voluntarily give consent for acquisition of property, the respondents are entitled to take possession of the same, otherwise the respondents

are directed to follow due procedure contemplated under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and till the proceedings are initiated in accordance with law, the respondents shall not demolish the existing structures. There shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any pending in these Writ Petitions, shall also stand closed.

SD/-A.V.S.PRASAD
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To

1. The Principal Secretary, Municipal Administrative and Urban Development Department, Secretariat, Hyderabad, State of Telangana.
2. The Commissioner, Greater Hyderabad Municipal Corporation Hyderabad, Having its office at Tank Bund, Hyderabad-TS
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation, Kukatpally Zone, Having its office at Kukatpally, Hyderabad-TS
4. The Assistant City Planner, Town Planning Section, Circle No.14-B, Kukatpally, Greater Hyderabad Municipal Corporation Hyderabad Kukatpally, Hyderabad-TS
5. Two CCs to GP FOR MCPL ADMN & URBAN DEV, High Court for the State of Telangana, at Hyderabad. [OUT]
6. One CC to SRI L.VENKATESHWAR RAO, SC FOR GHMC [OPUC]
7. One CC to SRI MOHD ZIA UL HAQ, Advocate [OPUC]
8. Two CD Copies

PSK.
SW



HIGH COURT

DATED:15/02/2023

COMMON ORDER

WP.Nos.42978 AND 42982 of 2022



AT ADMISSION STAGE DISPOSING OF THE WRIT
PETITIONS
WITHOUT COSTS.

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RMA
13/3/2023