

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

**FRIDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

WRIT PETITION NO: 2126 OF 2023

Between:

Sri Yadla Satish Kumar, S/o Sri Yadla Ramachandra Rao Aged - 48 years, Occ:
Software Engineer R/o H.No.13-A, Sri Rama P.S. Nagar, Masab Tank, Hyderabad

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary Municipal Administration & Urban Development Secretariat, Hyderabad
2. Greater Hyderabad Municipal Corporation, Rep. by the Commissioner, Liberty X Road, Hyderabad
3. Greater Hyderabad Municipal Corporation, Rep. by the Zonal Commissioner, Serilingampally Zone, Ranga Reddy District
4. The District Collector and Competent Authority (ULC Wing), Ranga Reddy District, Collectors Office, Lakdi-ka-pool, Hyderabad

...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 pass an order or direction particularly in the nature of Writ of Mandamus, declaring the: a) action of the Respondents in not regularising and allotting excess/surplus land admeasuring 400 sq.yards bearing Plot No. 126 and H.No.1-65/2/5/126, in Sy.Nos.34, 35/Part, 36/Part, 37, 38 and 39 of Guttalabegumpet Village, Serilingampally Mandal, Ranga Reddy District, in pursuance of Application No.F1/455/2110/05 dated 08/08/2005 submitted by one of my Vendors, Kundurthi Satya Murthy, under G.O.Ms.No.455, Revenue (UC.I) Department dated 29/07/2002; b) inaction of Respondents 2 and 3 in considering the LRS application dated 19/03/2008 submitted by the Petitioner and other co-

owners in respect of the aforesaid Plot and their further action in insisting on the Petitioner to produce No Objection Certificate from ULC Department in order to approve the said LRS application; and c) action of Respondents 2 and 3 in issuing Short Fall Letter dated 13/12/2022 insisting on the Petitioner to produce No Objection Certificate from the Urban Land Ceiling Department for the aforesaid Plot, in order to process the building application dated 07/12/2022 submitted by the Petitioner for constructing a residential house in the said Plot; as arbitrary, illegal, unjust, in violation of the principles of natural justice, in violation of the Fundamental and Constitutional rights guaranteed under the Constitution of India, and contrary to law and consequently, direct the Respondents to a) regularise and allot the aforesaid plot by processing the aforesaid application dated 08/08/2005 submitted by Kundurthi Satya Murthy and b) process and approve the aforesaid LRS application dated 19/03/2008 as well as building application dated 07/12/2022 submitted in respect of the aforesaid Plot, without insisting on No Objection Certificate from Urban Land Ceiling Department.

IA NO: 1 OF 2023

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 3rd Respondent herein to consider for granting of building permission and sanction to the petitioner for his property bearing Plot No.126, House No.1-65/2/5/126, Sy.No.34, 35/Part, 36/Part, 37, 38 and 39, admeasuring 400 sq. yards, situated at Guttalabegumpet Village, Serilingampally, Ranga Reddy District without insisting the NOC from the ULC Department.

**Counsel for the Petitioner : SRI B.V.V.S.MURTHY
for M/s.M.KARTIK PAVAN KUMAR**

Counsel for the Respondents: GP FOR ASSIGNMENTS

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.2126 of 2023

ORDER:

The writ petition is filed to declare the action of the respondents in not regularizing and allotting excess/surplus land admeasuring 400 sq. yards in Plot No.126 and H.No.1-65/2/5/126 in Sy.Nos.34, 35/Part, 36/Part, 37, 38 and 39 of Guttalabegumpet Village, Serilingampally Mandal, Ranga Reddy District, pursuant to the Application No.F1/455/2110/05 dated 08.08.2005 submitted by the vendor of the petitioner, namely, Kundurthi Satya Murthy, under G.O.Ms.No.455 Revenue (UC.I) Department dated 29.07.2002; the inaction of the respondents No.2 and 3 in considering the LRS application of the petitioner dated 19.03.2008 in respect of the aforesaid plot and to declare the action of the respondents No.2 and 3 in issuing shortfall letter dated 13.12.2002 insisting the petitioner him to produce NOC from the ULC authorities for processing the building application of the petitioner dated 07.12.2022 as arbitrary, illegal and in violation of principles of natural justice.

2. It is the case of the petitioner that himself, Sri Bhavana Ramesh Babu and Gutta Narasimha Rao are the absolute owners of the subject property having purchased the same from previous owner, Kundurthi Satya Murthy and others under registered sale deed bearing document No.18787/2005 dated 30.11.2005.

The petitioner submitted application seeking building permission vide File No.012906/ GHMC/6315/SLP2/2022-BP dated 06.12.2022. The respondent No.3 vide letter dated 13.12.2022 issued short fall letter and directed the petitioner to get ULC clearance from the competent authority. It is stated that the action of the respondent authority in insisting upon ULC clearance certificate is unwarranted and arbitrary.

3. It is stated that one Shri Ganapati and six others filed their respective declarations under Section 6(1) of the Urban Land (Ceiling & Regulation) Act, 1976 (for short 'the Act'), in C.C.No.F1/2971/1976 and Batch, declaring the surplus lands held by them in Sy.Nos.33 to 39 of Guttalabegumpet Village, Serilingampally Mandal, Ranga Reddy District. During the pendency of the said batch of cases, Ravindra Cooperative Housing Society Limited (Registration No.TBC-247) purchased land admeasuring Ac.77.07 guntas in Sy.Nos.33, 34/P, 35/P, 36, 37, 38 and 39 of Guttalabegumpet Village, Serilingampally Mandal, Ranga Reddy District, from the original owners through registered Sale Deeds dated 22.11.1979 bearing Document Nos.6950, 6951, 6952, and 6953 of 1979, dated 23.11.1979 bearing Document No.6957 of 1979, dated 26.11.1979 bearing Document No.7047 of 1979, dated 27.11.1979 bearing Document Nos.7053, 7054 and 7055 of 1979

and dated 28.11.1979 bearing Document Nos.7078, 7079, 7089, 7090 and 7091 of 1979.

4. It is stated that, thereafter, the society sold all of the plots in the said layout to various third parties and Plot No.126 admeasuring 400 sq. yards, in the said layout, was purchased by one Kundurthi Anjaneyulu under registered Sale Deed dated 28.01.1980 bearing Document No.689 of 1980. After the death of Kundurthi Anjaneyulu, the aforesaid batch of Urban Land Ceiling cases were decided on 17.02.2005 declaring Sri Ganapati and six others as surplus land holders to the extent of 197819.65 sq. meters (48.88 Acres). Thus, most of the plots in the aforesaid layout made by Ravindra Cooperative Housing Society Limited were declared as surplus lands under the aforesaid order dated 17.02.2005 passed by the competent authority under the Act.

5. It is stated that on coming to know of the aforesaid order dated 17.02.2005, Kundurthi Satya Murthy, who is the son of late Kundurthi Anjaneyulu, submitted application No.F1/455/2110/05 dated 08.08.2005 for allotting surplus land in Plot No.126 under G.O.Ms.No.455 Revenue (UC.1) Department dated 29.07.2002 by paying requisite charges. It is stated that along with Kundurthi Satya Murthy several other plot owners submitted similar applications to the respondent No.4 for regularisation of surplus

lands purchased by them. In total, about 528 applications were filed under G.O.Ms.No.455 dated 29.07.2002 for regularisation of plots in Sy.Nos.33 to 39 of Guttalabegumpet Village. Out of the said 528 applications, 517 applications were approved and 517 plots in the aforesaid survey numbers were regularised and allotted to the occupiers of the said plots. About 11 applications were not approved including the application of Kundurthi Satya Murthy.

6. It is stated that Kundurthi Satya Murthy and his family members actively pursued their application for regularisation. However, before disposal of the said application, they sold the Plot No.126 to the petitioner and two others under registered sale deed dated 30.11.2005 bearing document No.18787 of 2005. In the sale deed it was clearly mentioned that Kundurthi Satya Murthy and others have already submitted regularization application. After purchase of the aforesaid property, the petitioner submitted representations to the respondent authorities to process the aforesaid application submitted by Kundurthi Satya Murthy. However, the respondent authorities did not consider the said application. As such, the petitioner was constrained to file the instant writ petition.

7. In the counter filed by the respondent No.4 it is stated that the petitioner did not file any application under G.O.Ms.No.455.

The petitioner does not have any right or title to seek regularization of land and for grant of building permission over the ceiling surplus land. As per the record, Kundurthi Satya Murthy, has filed regularization application in terms of G.O.Ms.No.455 dated 29.07.2002. The land is vested in the Government under the provisions of the ULC Act and after issuing Section 10(6) proceedings, possession was taken over under the cover of panchanama dated 17.03.2008, 08.02.2008 and 15.03.2008 i.e. well before the Repeal Act came into force.

8. Mr. C.V. Mohan Reddy, learned senior counsel, appearing for the petitioner submitted that it was specifically stated in the sale deed of the petitioner that pursuant to notice dated 21.06.2005 issued by the Special Officer and Competent Authority, ULC, to the vendor No.1 in proceedings No.F1/2917/76, the vendor No.1 submitted all documents as required under G.O.Ms.No.455 dated 29.07.2002 along with bankers cheque No.121137 dated 08.08.2005 for Rs.20,064/- and requested the authorities to regularize the subject property. It is also mentioned that the vendor No.1 assured the purchasers that he will hand over the required permission and regularization proceedings immediately after obtaining from the ULC authorities.

9. Learned senior counsel further submitted that, merely because the vendor of the petitioners has sold the property pending consideration of regularization application under G.O.Ms.No.455 dated 29.07.2002, a stand cannot be taken by the respondent authorities that the petitioner is not entitled to get the subject plot regularized. G.O.Ms.No.455 does not bar the purchasers to pursue regularization application of their vendors. There is no illegality as such in transferring the property pending regularization application. In any case, the property was sold with a cloud on title and subject to regularization application under G.O.Ms.No.455.

10. Learned Government Pleader for Assignment submitted that under G.O.Ms.No.455 dated 29.07.2022 regularization application cannot be considered unless it is evidenced by a registered document of purchase from the excess land holder or person claiming through him as per Para 4(e) of G.O.Ms.No.455. The petitioner is not the applicant and purchase of the subject plot by the petitioner and others pending consideration of the regularization application would not convey any title, as such the application of the petitioner cannot be considered.

11. Learned Government Pleader further submitted that several persons along with purchasers approached the Government and ULC authorities and requested similar applications to be considered.

The ULC Department by Lr.No.F1/1449/2016 dated 09.07.2019 requested the Special Chief Secretary to Government, Revenue (ULC) Department, to accord permission to regularize surplus plots/lands for which applications were filed and amount paid. It was informed in the said letter that several applications were not processed due to various administrative reasons and third party sales have been created. It was pointed out that (a) there are transactions within the family members; (b) some of the applicants sold the plots to others and (c) some applicants having sold the plots are claiming refund of the amount and seeking withdrawal of their applications. It was recommended that cases falling under category (a) and (b) can be easily disposed of. It is stated that the matter is pending before the Government and it may take favourable decision. There are several similar applications wherein the applicants have transferred the plots even before the regularization orders were issued.

12. In rejoinder, the learned senior counsel for the petitioners submitted that there is no bar under the provisions of the ULC Act or G.O.Ms.No.455 dated 29.07.2022 or any other law for processing the regularization application of the vendors, who have sold the property pending consideration of such application.

13. In the opinion of this Court, the petitioner, who has purchased the subject property along with others under registered sale deed dated 30.11.2005 bearing document No.18787/2005, is entitled to pursue the regularization application submitted by his vendor. The contention of the learned Government Pleader for Assignment that the purchase of property by the petitioner is illegal cannot be appreciated inasmuch as the issue in this writ petition is not regarding the validity of sale deed of the petitioner. This Court is only concerned with the processing of regularization application submitted by the vendor of the petitioner, Kundurthi Satya Murthy.

14. As discussed above, the vendor of the petitioner assured that regularization application will be pursued. Thus, even if there is a defect in title of the petitioner and the petitioner did not get valid title under sale deed dated 30.11.2005, if the regularization application is favourably considered, the defect in title, if any, would stand rectified and would enure to the benefit of the petitioner. The petitioner has stepped into the shoes of his vendor. The application, which is being processed, is not submitted by the petitioner but submitted by his vendor, who has a sale deed directly executed through the declarant/family members. Thus, the contention of the learned Government Pleader for Assignment that para 4(e) of G.O.Ms.No.455 dated 29.07.2022 is not satisfied is without any merit.

15. This Court also takes into consideration the policy behind the regularization orders issued by the Government from time to time exempting surplus land from the provisions of the ULC Act. The Government, having taken into consideration that surplus lands have been sold to innocent parties, intended to ensure that there is no prolonged litigation and plots purchased by individuals for their housing needs are regularized. By looking it from the angle of Government, it has to be seen that neither there is prejudice caused to the Government nor there is loss to the State exchequer. On the other hand, out of 528 applications submitted for regularization, 517 applications have been considered and only 11 applications have not been considered. However, reasons are not known.

16. In any event, the District Collector, Urban Land Ceiling, Ranga Reddy District, vide letter dated 09.07.2019 brought to the notice of the Government that several regularization applications are pending and requested approval from the Government. As there is no information forthcoming from the Government, even when such request was made by the District Collector in the year 2019, the submission of the learned Government Pleader for Assignment to direct the Government to take a decision pursuant to such request, in the opinion of this Court, would cause hardship to the petitioner and does not fall for consideration in this case. It may

be pertinent to note that there is no embargo for the Government to process the application of the vendor of the petitioner as the petitioner has stepped into the shoes of his vendor. There is no illegality committed or violation of any of the conditions of G.O.Ms.No.455 dated 29.07.2022 including para 4(e) therein.

17. In view of the above, the writ petition is allowed. The respondents are directed to process the regularization application No.F1/455/2110/2005 dated 08.08.2005 submitted by Kundurthi Satya Murthy under G.O.Ms.No.455 dated 29.07.2022 by giving notice to the petitioner and all interested/concerned persons and pass orders, in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

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SD/- T.JAYASREE
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary Municipal Administration & Urban Development Secretariat, State of Telangana, Hyderabad
2. The Commissioner, Greater Hyderabad Municipal Corporation, Liberty X Road, Hyderabad
3. The Zonal Commissioner, Serilingampally Zone, Greater Hyderabad Municipal Corporation, Ranga Reddy District
4. The District Collector and Competent Authority (ULC Wing), Ranga Reddy District, Collectors Office, Lakdi-ka-pool, Hyderabad
5. One CC to SRI M.KARTHIK PAVAN KUMAR, Advocate. [OPUC]
6. Two CCs to the GP FOR ASSIGNMENTS, High Court for the State Of Telangana at Hyderabad. [OUT]
7. Two CD Copies.

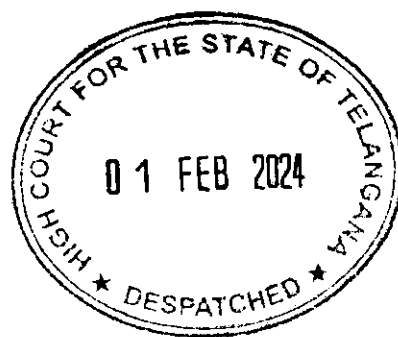
BSK



HIGH COURT

DATED:22/12/2023

CC TODAY



ORDER

WP.No.2126 of 2023

**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

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