

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

FRIDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION Nos.9419 and 9482 of 2020

WRIT PETITION NO: 9419 OF 2020

Between:

1. Bobbiligama Jyothi, W/o. A. Madhu, Aged about 32 years, Occ. Housewife, R/o. H. No. 2. - 41/1, Goutami Nagar, Chandanagar, Hyderabad
2. Marpu Venugopal, S/o. M. Narayan Reddy, Aged about 45 Years, Occ. Private Employee, R/o. H.No. 9 - 85, Boppapuram, Karimangar District, Telangana State

...PETITIONERS

AND

1. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tankbund, Hyderabad.
2. The Deputy Commissioner, Circle.2I, GHMC, Serilingampally Mandal, Ranga Reddy District

...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 action of the 2nd respondent in rejecting petitioners application for building permission vide Lr.No.1015/TPS /C21/GHMC/2020, dated 15/06/2020 as illegal arbitrary, discriminatory and in violation of the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and consequently direct the 2nd respondent herein to grant building permission as prayed for in application bearing file No.3/C21/01015/2020 as directed in W.P.No.42282/2015 dt.12/09/2016 and W.P.No.34412/2014 dt.08/12/2014.

IA NO: 1 OF 2020

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 to grant building permission vide application bearing file No.3/C21/01015/2020 as directed in W.P.No.42282/2015 Dt. 12/09/2016 and W.P. No.34412/2014 Dt. 08/12/2014 pending disposal of the above writ petition.

WRIT PETITION NO: 9482 OF 2020

Between:

1. Sanna Ramadevi, W/o. Sanna Prakash, Aged about 36 years, Occ. Housewife, R/o. H, No. 6 - 4 - 41, Balanagar Cross Road, Balanagar, Hyderabad.
2. Sanna Sumitra, W/o . Sanna Srinivas Yadav, Aged about 40 years, Occ. Housewife, R/o. H.No. 6 - 4 - 41, Balanagar Cross Road, Balanagar, Hyderabad.

...PETITIONERS

AND

1. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tankbund, Hyderabad.
2. The Deputy Corrimissioner, Circle - 21, GHMC., Serilingampally Maridal, Ranga Reddy District.

...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 action of the 2mt respondent in rejecting petitioners application for building permission vide Lr.No. 1014/TPS/C2 /GHMC/2020 dated 15/06/2020 as illegal, arbitrary, discriminatory and in violation of the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 and consequently direct the 2nd respondent herein to grant building permission as prayed for in application bearing file No. 3/C21/0104/2020 as directed in W.P. No. 42282 of 2015 Dt. 12/09/2016 and W.P. No. 34412 of 2014 Dt. 08/12/2014.

IA NO: 1 OF 2020

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 to grant building permission vide application bearing file No.3/C21/01014/2020 as directed in W.P.No.42282/2015 dt.12/09/2016 and W,P.No.34412/2014 dt. 08/12/2014, pending disposal of the above writ petition.

Counsel for the Petitioner in both cases : SRI. S. SRIDHAR

**Counsel for the Respondents in both cases: SRI M.A.K. MUKHEED
(SC FOR GHMC)**

The Court made the following: COMMON ORDER

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION Nos.9419 and 9482 of 2020

COMMON ORDER :

The lis involved in both the writ petitions is one and the same and therefore the same were heard together and disposed of by way of this common order at the admission stage with the consent of both parties.

2. These writ petitions are filed with the following reliefs.

“....to issue a Writ Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in rejecting petitioners application for building permission vide Lr No. 1015/TPS /C21/GHMC/2020 dated 15/06/2020 as illegal arbitrary discriminatory and in violation of the provisions of the Greater Hyderabad Municipal Corporation Act 1955 and consequently direct the 2nd respondent herein to grant building permission as prayed for in application bearing file No. 3/C21/01015/2020 as directed in W.P.No. 42282/2015 dt 12/09/2016 and W.P.No. 34412/2014 dt 08/12/2014 and pass...”

“....to issue a Writ Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in rejecting petitioners application for building permission vide Lr No. 1014/TPS /C21/GHMC/2020 dated 15/06/2020

as illegal arbitrary discriminatory and in violation of the provisions of the Greater Hyderabad Municipal Corporation Act 1955 and consequently direct the 2nd respondent herein to grant building permission as prayed for in application bearing file No. 3/C21/01014/2020 as directed in W.P.No. 42282/2015 dt 12/09/2016 and W.P.No. 34412/2014 dt 08/12/2014 and pass..."

3. Heard M/s. S.Sridhar, learned counsel for the petitioner in both the writ petitions and Mr. M.A.K.Mukeed, learned Standing Counsel for Greater Hyderabad Municipal Corporation.

4. For the convenience, the facts in Writ Petition No.9419 of 2020 are stated hereunder.

5. It is the case of the petitioners that they are the absolute owners of Plot bearing No.33 admeasuring 225 square yards or 188.1 Square meters in Sy.No.41/12 and 41/13, situated at Khanamet village, Serilingampally Mandal, having purchased the same through a registered sale deed bearing document No.17795 of 2019 dated 09.09.2019 and that their vendor obtained the title over the subject property through a registered Gift Settlement Deed document bearing No.7345 of 2003 dated 13.06.2003. It is the further case of the petitioners that their

vendor had made an application seeking regularization of the subject land under LRS scheme and respondent No.1 after considering his application regularized the said plot vide proceedings No.LRS/1046/CR-12/West Zone/GHMC/2013 dated 18.10.2013. The petitioners after purchasing the said property, made an application bearing file No.3/C21/01015/2020 dated 19.02.2018 seeking building permission duly enclosing all the relevant documents for consideration of respondent No.1-Greater Hyderabad Municipal Corporation and respondent No.1 vide letter No.E1/1111/2017 dated 03.04.2017 informed that the lands in survey Nos.41/2 and 41/13 are government lands and rejected the building permission application. Aggrieved by the rejection order of respondent No.1, the petitioners filed W.P.No.25389 of 2019. This Court vide orders dated 02.12.2019 has set aside the rejection order passed by respondent No.1 directing the respondent authorities to consider the application for building permission submitted by the petitioners. Even after the direction of this Court, respondent authorities are not considering the application for building permission on the ground that the subject property is getting effected under the proposed 100 feet wide slip road as per the approved RDP dated

19.03.2020 and in view of the same, it is not feasible to grant building permission as per the building norms.

6. Respondents have filed counter affidavit stating that petitioners are not entitled for building permission on the ground that major part of the subject site is getting affected under the proposed 100 feet wide slip road. Therefore, they are not in a position to grant building permission as prayed by the petitioners.

7. The main contention of the petitioners is that they are the absolute owners of Plot bearing No.33 admeasuring 225 square yards or 188.1 Square meters in Sy.No.41/12 and 41/13, having acquired the same through registered sale deed, however respondent No.1 without invoking the land acquisition proceedings under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short the Act) has taken possession of their land. According to the petitioners, respondents have laid the road leaving a small portion of 21 Sq.yards. When the petitioners made an application seeking building permission on the remaining 21 Sq.yards which was not acquired by the GHMC, neither they are coming forward to grant building

permission, nor they are acquiring the same by paying compensation under the provisions of the Act.

8. It is a settled principle of law that the authorities are not entitled to take possession of the property without following due procedure laid down under land acquisition Act. Further respondent No.1 also issued a notification No.C/136/2020 dated 20.07.2020 stating that a total extent of 300 sq.yards of land is required for public purpose i.e., laying of 100 feet wide road from Hitex Road to Environ Raod (via Bhagyanager colony road). The notification also states that land forming part of survey Nos.44/12 and 41/13 to an extent of 150 Sq. yards belonging to each of the petitioners is proposed for acquisition. It also establishes the right of the petitioners that they are the absolute owners and entitled for compensation over the subject land.

9. Therefore, respondents are directed to initiate steps immediately for payment of compensation in accordance with the provisions of the Act, 2013 or if the municipal corporation does not require the remaining extent of land which was not acquired as per the notification, they shall allow the petitioner to proceed with the constructions in accordance with law.

10. With the above observations, writ petitions are disposed of. No costs.

As a sequel thereto, miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner, Greater Hyderabad Municipal Corporation And Another, Tankbund, Hyderabad.
2. The Deputy Commissioner, Circle.21, GHMC Serilingampally Mandal Ranga Reddy District
3. One CC to SRI. S. SRIDHAR Advocate [OPUC]
4. One CC to SRI. M.A.K. MUKHEED (SC FOR GHMC) [OPUC]
5. Two CD Copies

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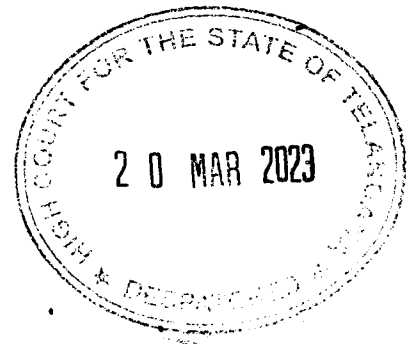
LS 

HIGH COURT

DATED:03/02/2023

COMMON ORDER

W.P.No.9419 and 9482 of 2020



**DISPOSING OF THE WRIT PETITIONS
WITHOUT COSTS**

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18/3/23