

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

CONTEMPT CASE NO: 1942 OF 2014

WRIT PETITION NO: 33142 OF 2013

AND

WRIT PETITION NO: 29387 OF 2014

Petition under Sections 10 to 12 of Contempt of Courts Act 1971 to punish the respondent herein for willfully and deliberately, violating, the orders of the High Court dated 20-11-2013 in W.P.M.P.No. 41231 of 2013 in W.P.No. 33142 of 2013

Between:

Mohd. Amiruddin S/o Late Mohd. Himayatuddin Aged about 52 years, Occ: Bank Employee R/o Plot No. 78, H.No. 11-15-63 Road No. 2, Doctor Colony, Saroornagar, Hyderabad.

...PETITIONER/PETITIONER

AND

1. B. Srinivas Reddy, Deputy Commissioner Greater Hyderabad Municipal Corporation Circle No.3, L.B.Nagar, Hyderabad.
2. Mr. C.N. Raghu Prasad, Zonal Commissioner Greater Hyderabad Municipal Corporation Saroornagar Nagar, L.B.Nagar, Hyderabad.
3. S.Yadaiah S/o S. Jangaiah Goud Aged about 45 years, Occ: Builder C/o Mallikarjuna Steel Shop, R/o Plot No. 79 Doctor Colony, Saroornagar, Hyderabad.
4. B.Venugopal S/o B.Laxmaiah Aged about 45 years, Occ: Steel Shop Owner, Mallikarjuna Steel Shop, R/o Plot No. 79 Doctor Colony, Saroornagar, Hyderabad.
5. D.Venkata Chary S/o D. Chandraiah Aged about 40 years, Occ: Gold Smith R/o Plot No. 79, Doctor Colony, Saroornagar, Hyderabad.

...RESPONDENTS/RESPONDENTS NO. 2 TO 6

IA NO: 1 OF 2018

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 issue a direction to the respondents/Corporation Officials to stop the construction by the unofficial respondent forthwith by calling the respondents by summoning them to this Hon'ble Court and punish them for their willful disobedience and intentional violation of this Hon'ble Court in the interest of justice

Counsel for the Petitioner: SRI. MOHD ASIFUDDIN

Counsel for the Respondent No. 1 & 2: M. DURGA PRASAD (SC FOR GHMC)

Counsel for the Respondent No.4: SRI SRINIVASULU KURRA

Counsel for the Respondent No.3 & 5: None Appeared

WRIT PETITION NO: 33142 OF 2013

Between:

Mohd. Amiruddin, S/o Late Mohd. Himayatuddin Aged about 52 years, Occ: Bank Employee R/o Plot No. 78, H.No. 11-15-63 Road No.2, Doctor Colony, Saroomagar, Hyderabad.

...PETITIONER

AND

1. The Greater Hyderabad Municipal Corporation, Rep by its Commissioner, Tank Bund, Hyderabad
2. The Greater Hyderabad Municipal Corporation, Rep by its Deputy Commissioner, Circle No.3, L.B.Nagar, Hyderabad.
3. The Greater Hyderabad Municipal Corporation, Rep by its Zonal Commissioner, Saroomagar Nagar, L.B.Nagar, Hyderabad.
4. S. Yadaiah S/o S. Jangaiah Goud Aged about 45 years, Occ: Builder C/o Mallikarjuna Steel Shop, R/o Plot No. 79 Doctor Colony, Saroomagar, Hyderabad.
5. B. Venugopal S/o B. Laxmaiah Aged about 45 years, Occ: Steel Shop Owner, Mallikarjuna Steel Shop, R/o Plot No. 79 Doctor Colony, Saroomagar, Hyderabad.
6. D. Venkata Chary S/o D. Chandraiah Aged about 40 years, Occ: Gold Smith R/o Plot No. 79, Doctor Colony, Saroomagar, 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 issue a appropriate writ order or orders, particularly one in the nature of Writ of Mandamus declaring the action of the respondents No. 1 to 3 in not taking action against the respondents No. 4 to 6 for their illegal construction by

encroaching the road adjacent to petitioner residence pursuant to various representations latest being dated 05-09-2013 is arbitrary and illegal and consequently issue a direction to the respondents No. 1 to 3 to remove illegal construction and encroachment on road adjacent to petitioner house

WPMP. NO: 41231 OF 2013

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 issue a direction to the respondents No. 1 to 3 to take action against respondents No. 4 to 6 to not to proceed with any further construction without there being any sanctioned plan and in gross violation of Building Bye Law pending disposal of the Writ Petition in the interest of justice

Counsel for the Petitioner: SRI. MOHD ASIFUDDIN

Counsel for the Respondent No 1 to 3: K DURGA PRASAD (SC FOR GHMC)

Counsel for the Respondent No.3: J. JAYANAND

Counsel for the Respondent No. 4 to 6: R. DHEERAJ SINGH

The Court made the following: ORDER

WRIT PETITION NO: 29387 OF 2014

Between:

1. S. Yadaiah, S/o. Jangaiah, aged 40 years, Occ: Labour, R/o. Plot No.79, 11-15-83/B/1, Doctors Colony, Saroomagar, R.R. District
2. B. Venugopal, S/o. Lakshmaiah, aged 47 years, Occ: Labour, R/ o. Plot No.79, 11-15-83/B/1, Doctors Colony, Saroomagar, R.R.District

...PETITIONERS

AND

1. Government of Telangana rep by its Secretary, Municipal Administration Department, Secretariat, Hyderabad.
2. Greater Hyderabad Municipal Corporation, rep by its Deputy Commissioner, Circle-3, L.B.Nagar, 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 issue a Writ/Order/Direction more particularly a Writ of Mandamus declaring the impugned notice in UC/32/W.14/TPS/C3/EZ/ GHMC/2011 dt.09.01.2014 issued by the 2nd respondent is illegal, arbitrary, unjust, impermissible and in violation of principles of natural justice besides violation of Art.14 of the Constitution of India and consequently set aside the impugned

proceedings in UC/32/W.14/TPS/C3/EZ/GHMC/2011 dt.09.01.14 issued by the 2nd respondent

I.A. NO: 1 OF 2014(WPMP. NO: 36738 OF 2014)

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 suspend the operation of impugned proceedings in UC/32/W.14/TPS/C3/EZ/GHMC/2011 dt.09.01.2014 issued by the 2nd respondent pending disposal of the writ petition

Counsel for the Petitioners: SRI. SRINIVASULU KURRA

Counsel for the Respondents: GP FOR MCPL ADMN-URBAN DEV (TG)

Counsel for the Respondents: K DURGA PRASAD (SC FOR GHMC)

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

Contempt Case No.1942 of 2014;

Writ Petition No.33142 of 2013;

and

Writ Petition No.29387 of 2014

COMMON ORDER:

Since common issue arise in all these cases, they are being disposed of by way of this Common Order with the consent of both parties.

Writ Petition No.29387 of 2014 :

2. Writ Petition No.29387 of 2014 is filed by the petitioners (respondent Nos.3 and 4 in the present Contempt Case) seeking a *Writ of Mandamus* to declare the impugned notice in UC/32/W.14/TPS/C3/EZ/GHMC/2011, dated 09.01.2014, issued by the 2nd respondent therein as illegal, arbitrary, unjust, impermissible and in violation of principles of natural justice besides violation of Article 14 of the Constitution of India; and consequently to set aside the impugned notice, dated 09.01.2014, issued by the 2nd respondent.

3. There is no representation on behalf of the petitioners in Writ Petition No.29387 of 2014.

4. *Vide* above impugned notice, the 2nd respondent directed the petitioners therein (respondent Nos.3 and 4 in the present Contempt Case) to remove / dismantle the unauthorized constructions within three (03) days, failing which action would be initiated by it.

5. A perusal of the said impugned notice would go to show that, the petitioners therein (respondent Nos.3 and 4 in the present Contempt Case) have earlier approached the Civil Court, by filing O.S.No.52 of 2012 before the II Additional Junior Civil Judge, Ranga Reddy District; vide order dated 16.02.2012, the Court below disposed of O.S.No.52 of 2012 on its file; and subsequently, in Writ Petition No.33142 of 2013, filed by one Mohd. Amiruddin (petitioner in the present Contempt Case), a learned Single Judge of this Court, vide order dated 20.11.2013 in WPMP.No.41231 of 2013 in Writ Petition No.33142 of 2013, granted interim direction by directing the respondent Nos.4 to 6 therein not to proceed with further constructions in the subject property therein.

6. A further perusal of the said impugned notice would also disclose that the petitioners (respondent Nos.3 and 4 in the present Contempt Case) are executing constructions unauthorisedly; and therefore, the impugned notice came to be issued by the 2nd respondent directing the petitioners to remove / dismantle the unauthorized constructions within three (03) days.

7. Aggrieved thereby, the petitioners (respondent Nos.3 and 4 in the present Contempt Case) filed the present Writ Petition.

8. *Vide* order dated 13.10.2014 passed in WPMP.No.36738 of 2014 in Writ Petition No.29387 of 2014, a learned Single Judge of this Court granted interim suspension of the impugned notice 09.01.2014, issued by the 2nd respondent, pending disposal of the writ petition.

9. On a query by the Court, learned Standing Counsel for the Greater Hyderabad Municipal Corporation, for respondent Nos.1 and 2, submitted that pursuant to the interim suspension granted by the learned Single Judge, they have not taken action on the illegal constructions carried out by the petitioners (respondent Nos.3 and 4 in the present Contempt Case).

Writ Petition No.33142 of 2013 :

10. Aggrieved by the inaction of respondent Nos.1 and 2 in Writ Petition No.29387 of 2014, one Mohd. Amiruddin, claiming to be adjacent owner of the subject property, filed Writ Petition No.33142 of 2013 before this Court, seeking a direction to the respondent Nos.1 to 3 for removal of illegal constructions carried out by the respondent Nos.4 to 6.

11. A learned Single Judge of this Court, vide order dated 20.11.2013 in WPMP.No.41231 of 2013 in Writ Petition No.33142 of 2013, granted interim direction by directing the respondent Nos.4 to 6 therein not to proceed with further constructions in the subject property without sanction plan.

Contempt Case No.1942 of 2014 :

12. Alleging wilful disobedience of the order passed by the learned Single Judge in WPMP.No.41231 of 2013 in Writ Petition No.33142 of 2013, dated 20.11.2013, the present Contempt Case came to be filed by the petitioner against the respondents.

13. Heard Mohd. Asifuddin, learned counsel for the petitioner in Writ Petition No.33142 of 2013 and Contempt Case; the learned Standing Counsel for Greater Hyderabad Municipal Corporation, for respondent-Corporation, in all the cases. None appears for the petitioner in Writ Petition No.29387 of 2014.

14. Learned counsel for the petitioner contended that the respondent Nos.4 to 6 herein (petitioners in Writ Petition No.29387 of 2014, except respondent No.6), without having any valid permission / sanction plan from the respondent-Municipal Corporation have proceeded to raise permanent structures which necessitated the petitioner to file writ petition, viz., Writ Petition No.33142 of 2013, praying for a direction to the respondent-Corporation to remove the illegal constructions carried out by respondent Nos.4 to 6 therein.

15. It is the further contention of learned counsel for the petitioner that even after filing of the present Contempt Case, the respondent Nos.1 to 3 have not taken action on the illegal constructions carried out by respondent Nos.4 to 6 though notice dated 09.01.2014 was issued to

the unofficial respondents by the respondent-Corporation under Section 636 of Greater Hyderabad Municipal Corporation Act, 1955 (impugned in Writ Petition No.29387 of 2014).

16. In view of above submissions, the Writ Petition No.33142 of 2013 is allowed. The respondent Nos.1 to 3 therein are directed to forthwith remove all illegal constructions made by respondent Nos.4 to 6 in pursuance of the notice, dated 09.01.2014, issued under Section 636 of Greater Hyderabad Municipal Corporation Act, 1955 in accordance with law.

17. In view of the order passed by this Court in Writ Petition No.33142 of 2013, no further orders are necessary to be passed in the Contempt Case. Accordingly, the Contempt Case is closed.

18. Since there is no representation on behalf of the petitioners in Writ Petition No.29387 of 2014, the same is dismissed for non prosecution.

19. In the result,

- (a) the Contempt Case is closed;
- (b) Writ Petition No.33142 of 2013 is allowed; and
- (c) Writ Petition No.29387 of 2014 is dismissed for non-prosecution.

20. No costs.

21. As a sequel, miscellaneous applications pending if any in these batch of cases, shall stand closed.

//TRUE COPY//

Sd/- T SRINIVAS
DEPUTY REGISTRAR


SECTION OFFICER

To,

1. The Greater Hyderabad Municipal Corporation, Rep by its Commissioner, Tank Bund, Hyderabad
2. The Greater Hyderabad Municipal Corporation, Rep by its Deputy Commissioner, Circle No.3, L.B.Nagar, Hyderabad.
3. The Greater Hyderabad Municipal Corporation, Rep by its Zonal Commissioner, Saroomagar Nagar, L.B.Nagar, Hyderabad.
4. One CC to SRI. MOHD ASIFUDDIN, Advocate [OPUC]
5. One CC to SRI. M. DURGA PRASAD (SC FOR GHMC) [OPUC]
6. One CC to SRI. J. JAYANAND, Advocate [OPUC]
7. One CC to SRI. C. DAMODAR REDDY (SC FOR GHMC) [OPUC]
8. One CC to SRI. R. DHEERAJ SINGH, Advocate [OPUC]
9. One CC to SRI. SRINIVASULU KURRA Advocate [OPUC]
10. Two CCs to GP FOR MCPL ADMN-URBAN DEV (TG) High Court for the State of Telangana. [OUT]
11. One CC to M/s. A. DEEPTHI Advocate [OPUC]
12. Two CD Copies

VH
PR



HIGH COURT

DATED: 09/02/2023

COMMON ORDER

CC.No.1942 of 2014

W. P.NO: 33142 OF 2013

AND

W. P.NO: 29387 OF 2014



CLOSING THE CC

ALLOWING THE

W.P.NO. 33142 OF 2013

DISMISSING THE

W.P.NO. 29387 OF 2014

FOR NON-PROSECUTION

(16) VCJ
17/4/23