

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

WEDNESDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 34146 OF 2023

Between:

Mrs. Fouzia Begum, W/o Mohd. Abdul Haneef, aged about 43 years, Occ.
Housewife, R/o. H.No.8-4-369/186, Banjara Nagar, Borabanda, Hyderabad -
500 018.

...PETITIONER

AND

1. The State of Telangana, rep. by its Principal Secretary, Municipal Administration and Development Department, Secretariat, Hyderabad
2. The Greater Hyderabad Municipal Corporation (GHMC), rep. by its Commissioner, Tankbund, Hyderabad.
3. The Deputy Commissioner, Chandanagar Circle- 21, Serilingampally Zone, 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 Certiorari, call for records and quash Ex.P-1 revocation letter dated 06.10.2023 in respect of building permission application bearing No. 326149/GHMC/16443/2023 dated 11.09.2023 issued by respondent no.3 by declaring the same as illegal, arbitrary, and contrary to the provisions of GHMC Act.

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 suspend the operation of Ex.P-1 revocation letter dated 06.10.2023 in respect of building permission application bearing No. 326149/GHMC/16443/2023

dated 11.09.2023 issued by respondent no.3 and permit the petitioner to proceed with construction in respect of Plot No. 32 in survey nos. 41/12 and 41/13 of Khanamet Village, Serilingampally Mandal, GHMC, Ranga Reddy District, Telangana as prayed in application bearing No. 326149/GHMC/16443/2023 dated 11.09.2023 pending disposal of the above writ petition.

Counsel for the Petitioner: SRI S.SRIDHAR

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

Counsel for the Respondent No.2 & 3: SRI M.A.K.MUKHEED, SC FOR GHMC

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.34146 of 2023

ORDER:

This Writ Petition is filed for issuance of a *Writ of Certiorari* to call for records and quash the revocation letter, dt.06.10.2023, issued by the 3rd respondent, in respect of building permission application bearing No.326149/GHMC/16443/2023, dt.11.09.2023, as being illegal, arbitrary and contrary to the provisions of Greater Hyderabad Municipal Corporation Act, 1955 and TS-bPASS Act, 2020.

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration & Urban Development Department appearing on behalf of respondent No.1, Sri M.A.K.Mukheed, learned Standing Counsel appearing on behalf of respondents No.2 & 3, and with the consent of the counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at admission stage.

3. Petitioner contends that she is the absolute owner and possessor of plot of land admeasuring 200 sq. yards in survey Nos.41/12 and 41/13 situated at Khanamet Village, Serilingampally Mandal, Ranga Reddy District, having acquired the same under a registered sale deed bearing document No.6187/2009, dt.11.11.2009.

4. Petitioner further contends she had approached the respondents-authorities and submitted an application through TS-bPASS online portal on 11.09.2023, seeking permission for construction of a

residential building in the aforesaid property; that the petitioner had obtained a provisional building permit order on 11.09.2023, which is subject to post verification within 21 days from the date of issuance of the said permission; and that as the respondents-authorities, in particular, the 3rd respondent, did not cause any verification within the said period of 21 days as provided under Section 7(9) of the Act, the provisional building permission generated by the petitioner through TS-bPASS online portal had attained the status of deemed approval.

5. Petitioner further contends that while the building permission obtained by the petitioner on 11.09.2023 had become final, the 3rd respondent-authority, who lacks jurisdiction, had issued the impugned proceeding revoking the said building permission, without even issuing a notice.

6. Petitioner further contends that the grounds as mentioned in the said revocation letter are also contrary to the order passed by this Court, dt.08.09.2023 in WP.No.24978 of 2023.

7. Per contra, learned Standing Counsel appearing on behalf of respondents No.2 & 3 would submit that the subject land, for which, the petitioner had obtained building permission, is an assigned land and therefore the 3rd respondent-authority had issued the impugned proceeding revoking the building permission obtained by the petitioner through TS-bPASS online portal.

8. Learned Standing Counsel, however, does not dispute the fact that the impugned revocation order issued by the 3rd respondent is beyond the period of 21 days, within which period only the authority could have issued the revocation letter as provided under Section 7(9) of the TS-bPASS Act, 2020.

9. I have taken note of the respective contentions urged.

10. This Court by order dt.08.11.2023 in WP.No.31001 of 2023 and order dt.07.12.2023 in WP.No.33023 of 2023, while explaining the scope of operation of the provisions of law had held that a building permission, which has received the status of a 'deemed approval' can only be revoked by the Commissioner in exercise of powers conferred on him under Section 7(11) of the TS-bPASS Act, 2020.

11. Since, the impugned proceeding, dt.06.10.2023, is admittedly beyond the period of 21 days from 11.09.2023, viz., the date on which the provisional building permission was obtained by the petitioner through TS-bPASS online portal, the 3rd respondent herein being the Deputy Commissioner, could not have issued the impugned proceeding revoking the building permission, and thus, the action of the 3rd respondent in issuing the impugned proceeding cannot be held as valid.

12. That apart, the issue of subject land being declared as government land, has also been considered by this Court in WP.No.24978 of 2023. This Court taking note of the earlier orders passed in WP.No.10352 of 2021, and the Writ Appeals No.403 of 2022

had negated the contention of the respondents-authorities as to the subject land being assigned land; and that since, the petitioner's land is also in the same survey number, the claim of the petitioner cannot be viewed differently.

13. Further, mere grant of building permission by the authorities does not amount to conferring or confirming the title of the applicant, who sought for building permission [see **Hyderabad Potteries Private Limited v. Collector, Hyderabad** ¹], the petitioner also cannot claim any equities in the event of her title to the subject property being called in question.

14. For the aforesaid reasons, the Writ Petition is allowed and the impugned order, dt.07.12.2023, is set aside. No order as to costs.

15. Consequently, miscellaneous petitions, if any, pending shall stand closed.

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**SD/- A.V.S.PRASAD
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Development Department, Secretariate, Hyderabad, State of Telangana.
2. The Commissioner, Greater Hyderabad Municipal Corporation (GHMC), Tankbund, Hyderabad.
3. The Deputy Commissioner, Chandanagar Circle- 21, Serilingampally Zone, GHMC, Serilingampally Mandal, Ranga Reddy District
4. One CC to SRI S.SRIDHAR, Advocate [OPUC]
5. One CC to SRI M.A.K.MUKHEED, SC FOR GHMC [OPUC]
6. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana at Hyderabad [OUT]
7. Two CD Copies

BSR

GJ

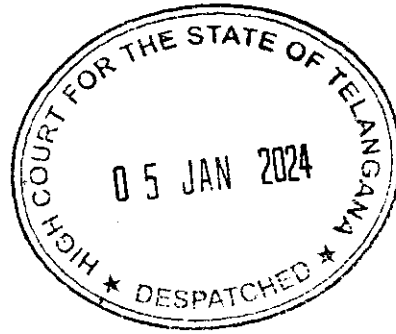
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HIGH COURT

DATED: 20/12/2023

ORDER

WP.No.34146 of 2023



**ALLOWING THE WRIT PETITION,
WITHOUT COSTS**

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