

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

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

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 34490 OF 2023

Between:

Smt.Nagpur Susheela, W/o. Late.N.AgamaiahYaday, Aged about. 68 Years,
Occ. Housewife, R/o. H.No.8-1-293/D/2, Dwarakanagar Colony, Shaikpet,
Hyderabad, T.S 500 008. Presently residing at H.No.8-1-284/OU/469, OU
Colony, Shaikpet, Hyderabad 500 081.

...PETITIONER

AND

1. State of Telangana, Rep., by it's Principal Secretary, Department of Municipal Administration and Urban Development, Secretariat, Telangana.
2. The Greater Hyderabad Municipal Corporation (GHMC), Represented by it's Commissioner, Tank Bund, Hyderabad.
3. The City Planner, Greater Hyderabad Municipal Corporation (GHMC), Tank Bund, Hyderabad.
4. The Zonal Commissioner, GHMC, Khairthabad Zone, Khairthabad, Hyderabad
5. The Deputy Commissioner (GHMC), Circle-18, Jubilee Hills Circle, Jubilee Hills, Hyderabad.
6. Sri.Sudeesh Yadav Nagpur, S/o. N.Agamaiah Yadav, Aged about. 42 Years, Occ. Business, R/o. Plot No. 365, Secretariat Colony, Manikonda, Hyderabad 500 089 presently residing at 16 SKEETER MERNDA, VICTORIA 3754, Australia.

represented by his GPA holder Sri. KODURI JAGAN MOHAN, Son of Late Sri. K.Y. RUSHI, Aged about. 49 years, Occupation . Business, Resident of Plot No. 365, Pratibha High School, Secretariat Colony, Puppalaguda Village, Gandipet Mandal, Ranga Reddy District, Telangana State, India.

...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 an appropriate writ, order or direction more particularly one in the

nature of Writ of Mandamus, declaring action of the respondents, more particularly 5th respondent in passing the order dated 22.09.2023 in proceedings no. 293/TPS/DC/C18/KZ/GHMC/2023 without issuing any show cause notice as illegal, arbitrary, unfair, unconstitutional and against to the principals of natural justice besides being violative of provisions of GHMC Act and consequently set aside the same by directing respondents no.2 to 5 not to interfere with the peaceful possession of the petitioner over the house property bearing H.No.8-1-293/D/2 situated at Dwaraka Nagar Colony, Shaikpet, Hyderabad, in the interest of justice.

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 respondents No.2 to 5 not to interfere with the peaceful possession of the petitioner over the house property bearing H.No.8-1-293/D/2 situated at Dwaraka Nagar Colony, Shaikpet, Hyderabad by suspending the impugned order dated 22.09.2023 in proceedings no. 293/TPS/DC/C18/KZ/GHMC/2023 issued by the 5th respondent, pending disposal of the Writ Petition in the interest of justice.

**Counsel for the Petitioner: SRI CHALLA DHANANJAY, REPRESENTING
FOR SRI SRIKANTH SUTARI**

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

Counsel for the Respondent No.2 to 5: SRI K. SIDDARTH RAO, SC FOR GHMC

Counsel for the Respondent No.6: SRI G. BHASKAR REDDY,

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.34490 OF 2023

ORDER:

This Writ Petition is filed to direct the respondent Nos.2 to 5 not to interfere with the peaceful possession of the petitioner over the house property bearing H. No.8-1-293/D/1 situated at Dwaraka Nagar Colony, Shaikpet, Hyderabad by suspending the impugned order dated 22.09.2023 in proceedings No293/TPS/DC/C18/KZ/GHGMC/2023 issued by the respondent No.5.

2. Heard Sri Challa Dhananjay, learned Senior Counsel appearing Sri Srikanth Sutari, learned Counsel for petitioner, learned Government Pleader for Municipal Administration & Urban Development for respondent No.1, Sri K. Siddarth Rao, learned Standing Counsel appearing on behalf of respondent Nos.2 to 5 and Sri G. Bhaskar Reddy, learned Counsel appearing on behalf of respondent No.6 and with the consent of the learned Counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at the stage of admission.

3. Petitioner contends that she is the owner of the property bearing H. No.8-1-293/D/2 situated at Dwaraka Nagar Colony, Shaikpet, Hyderabad having obtained the same under a gift

deed from her son Ramesh Yadav on 05.07.2023. The petitioner further contends that, since the said house was an old construction, the petitioner intended to construct a new building, after demolishing the old structure and had accordingly obtained building permission dated 19.07.2023 through TS-bPASS online instant approval system and thereafter commenced the work.

4. Petitioner further contends that the respondent No.6, who is her second son lodged a complaint with the respondent authorities on 14.08.2023 with regard to the construction undertaken by her; and that on the basis of the aforesaid complaint, the respondent authorities claimed to have issued a show cause notice dated 28.08.2023 calling upon the petitioner to submit her explanation thereto with regard to the construction being made in deviation of the sanctioned plan.

5. Petitioner further contends that the aforesaid show cause notice had not been served on her either in person or through post; and that the respondent authorities taking the said show cause notice as served and the petitioner not submitting any reply thereto have passed the impugned order holding the construction made by the petitioner to be in deviation of the sanctioned plan by not maintaining the mandatory set backs

and directed the petitioner to remove such construction made in deviation of the sanctioned plan, failing which it is proposed that the respondent authority would take action to remove such deviation.

6. Petitioner further contends that, since the petitioner has not been served with the show cause notice dated 28.08.2023 to which she could have submitted her explanation, the impugned order has been passed in violation of principles of natural justice.

7. *Per contra*, Sri Siddarth Rao, learned Standing Counsel appearing on behalf of respondent Nos.2 to 5 by placing before this Court the file containing the application made by the petitioner, would submit that the petitioner had applied for sanction of building permission wherein the contact address was shown as 8-1-293/D/2, Dwaraka Nagar Colony, Shaikpet, Hyderabad and obtained Permit Order under TS-bPASS in respect of the same said property.

8. Learned Standing Counsel further submits that on receiving the complaint from the respondent No.6 on 14.08.2023, the respondent authorities have caused a notice on the petitioner, *vide* show cause notice dated 28.08.2023 calling upon the petitioner to submit her explanation within seven

days; that the aforesaid show cause notice was served to one Ms. Nagamani (watchman) at the address mentioned in the application as contact address, which is the same address as the construction site for which permission has been obtained. Learned Standing Counsel would further submit that while serving a copy of the show cause notice to the aforesaid Nagamani in the building under construction, the respondent authorities have also taken photographs of the said watchman receiving the notice and the said photographs are available in the file.

9. Learned Standing Counsel further submits that despite the aforesaid show cause notice being served on the petitioner, as no explanation was submitted, the respondent authorities have passed a speaking order on 22.09.2023 and affected the service of the same on one Ramesh whose mobile number is also given as 9985476755, who is none other than the petitioner's son who had gifted the subject property in favour of the petitioner apart from handing over the same to the watchman. Learned Standing Counsel further submits that the speaking order was also served by pasting the same on the wall.

10. Learned Standing Counsel further submits that the impugned order has been served on the petitioner in the

manner prescribed under Section 630 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') and therefore the claim of the petitioner that no notice has been issued to her before passing of the speaking order is only invented for the purpose of the present Writ Petition.

11. Learned Counsel appearing on behalf of the respondent No.6 on the other hand submits that the respondent No.6 subsequent to submitting representation dated 14.08.2023 had submitted further representation on 30.10.2023 calling upon the respondent authorities to revoke the building permission, since, the said permission had been obtained by material misrepresentation, fraudulent statement inasmuch as the construction had been commenced even before the petitioner had approached the respondent authorities by submitting application for sanction of building permission and obtaining building permission through TS-bPASS online process.

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

13. Petitioner, who is present before this Court on being shown of the photographs of the person who had received the show cause notice, refuses to identify the said person Nagamani and claims ignorance of the existence of the said person standing in her property. Though the said submission made by

the petitioner in person to this Court does not impress or inspire confidence for being accepted as a correct statement being made to this Court, however, in order to test her bonafides, this Court deems it appropriate to direct the petitioner to treat the speaking order as show cause notice and submit her explanation thereto within a period of seven days.

14. At this stage, learned Counsel appearing on behalf of respondent No.6 submits that, since the said show cause notice has been issued on the basis of the complaint dated 14.08.2023 and thereafter the respondent No.6 having approached the respondent authorities and submitting a further representation dated 30.10.2023 calling upon the respondent authorities to cancel the building permission, the authorities are required to issue a fresh notice by considering the subsequent representation/complaint submitted by the respondent No.6.

15. Having regard to the aforesaid submission made by the learned Counsel for the respondent No.6, this Court is of the view that the respondent authorities should be directed to issue fresh show cause notice to the petitioner by taking into consideration the representation submitted by the petitioner dated 14.08.2023 and 30.10.2023 at the address shown as contact address in the application made for obtaining building

permission as well as present address as mentioned in the affidavit filed in support of the present Writ Petition into this Court to enable the petitioner to submit her explanation with regard to the construction being made allegedly in violation of the sanctioned plan.

16. At this stage, learned Standing Counsel appearing on behalf of respondent Nos.2 to 5 assures this Court that the revised show cause notice would be issued within a period of one week from today.

17. Since, the respondent authorities have indicated to this Court that the authorities would issue fresh show cause notice, this Court is of the view that the respondent authorities should be directed to take further action by following due process of law by considering the explanation submitted by the petitioner if any to the notice that would be issued by the respondent authorities.

18. Subject to the above direction, the Writ Petition is disposed of. No costs.

Consequently, miscellaneous petitions pending if any shall stand closed.

SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

- To,
1. The Principal Secretary, Department of Municipal Administration and Urban Development, Secretariat, State of Telangana, Telangana.
 2. The Greater Hyderabad Municipal Corporation (GHMC), Represented by it's Commissioner, Tank Bund, Hyderabad.

3. The City Planner, Greater Hyderabad Municipal Corporation (GHMC), Tank Bund, Hyderabad.
4. The Zonal Commissioner, GHMC, Khairthabad Zone, Khairthabad, Hyderabad
5. The Deputy Commissioner (GHMC), Circle-18, Jubilee Hills Circle, Jubilee Hills, Hyderabad.
6. One CC to Sri Srikanth Sutari, Advocate [OPUC]
7. One CC to Sri K. Siddarth Rao, SC for GHMC[OPUC]
8. One CC to Sri G. Bhaskar Reddy, Advocate[OPUC]
9. Two CCs to GP for Municipal Administration Urban Development, High Court for the State of Telangana, at Hyderabad [OUT]
10. Two CD Copies

T J
GJP

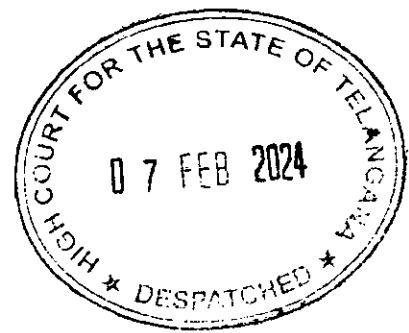
by

HIGH COURT

DATED:29/12/2023

ORDER

WP.No.34490 of 2023



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.**

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