

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

FRIDAY, THE SIXTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 46459 OF 2022

Between:

Dwarapogu Prabhakar, S/o. Kurmalah, aged about 50 years, Occ ; Govt. Service,
R/o.H.No.30- 49, Harijanwada, Wanaparthy town and District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration Department, Secretariat, Hyderabad.
2. The Wanaparthy Municipality at Wanaparthy, Wanaparthy District, Rep. by its Commissioner.
3. The Town Planning Officer, Wanaparthy Municipality, Wanaparthy District.
4. Dwarapogu Sabitha, W/o. Sreenu, aged about 41 years, Occ Housewife, R/o.H. No. 27- 458, Indira Colony, Wanaparthy town and 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 an order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent Municipality in issuing the impugned notice, dated 15- 11- 2022 in file G1/770/WMC12022 revoking the earlier construction permission dated 08- 07- 2022 as granted by the Municipality in favour of the petitioner in respect of plot No. 54, admeasuring 150 Sq. yards in Sy. No. 1041 to 1062 at Marremma Kunta, in the limits of Wanaparthy Municipality and town and taking steps to demolish the structures which was already made by the petitioner in pursuant to the said building permission, though the petitioner have already paid the regularization charges for approval of the above plot and further though the said plot is part and parcel of the proceedings issued by the RDO, dated 05- 07- 2019 converting the land as non-agriculture land, and though the petitioner is holding proper title document in respect of the said plot, as illegal, unlawful, contrary to law and consequently

direct the 2 respondent municipality not to take steps to demolish the construction.

I.A.NO:1 OF 2022

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 the impugned revocation order dated 15- 11- 2022 in file No. G1/770/WMC/2022 revoking the construction permission of the petitioner in respect of plot No. 54, admeasuring 150 Sq. yards in Sy. No. 1041 to 1062 at Marremma Kunta, in the limits of Wanaparthy Municipality including stay of demolition of the structures which were constructed by the petitioner as per the construction permission dated 08- 07- 2022, pending disposal of main writ petition.

Counsel for the Petitioner : SRI.M.DAMODAR REDDY

Counsel for the Respondent Nos.1 & 3 : GP FOR MCPL ADMN AND URBAN DEV

Counsel for the Respondent No.2 : SRI.M.RAM MOHAN REDDY

Counsel for the Respondent No.4 : --

The Court made the following ORDER

THE HON'BLE SMT.JUSTICE LALITHA KANNEGANTI

WRIT PETITION No. 46459 OF 2022

ORDER:

This Writ Petition is filed seeking the following relief:

“ to issue an order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent Municipality in issuing the impugned notice dated 15.11.2022 in file G1/770/WMC/2022 revoking the earlier construction permission dated 08.07.2022 as granted by the Municipality in favour of the petitioner in respect of Plot No. 54, admeasuring 150 sq. yards in Sy.No. 1041 to 1062 at Marremma Kurta in the limits of Wanaparthy Municipality and town and taking steps to demolish the structures which was already made by the petitioner in pursuant to the said building permission though the petitioner have already paid the regularisation charges for approval of the above plot and further though the said plot is part and parcel of the proceedings issued by the RDO, dated 05.07.2019 converting the land as non-agricultural land, and though the petitioner is holding proper title document in respect of the said plot, as illegal, unlawful, contrary to law and consequently direct the 2nd respondent municipality not to take steps to demolish the construction, and pass such other order or orders which are necessary in the interest of justice.”

2. Sri M. Damodar Reddy, learned counsel for petitioner submits that petitioner is the owner of open plots bearing Nos. 53 and 54 in Survey Nos. 1041/1, 1054/4, 1055/4, 1062/3, 1041 to 1062 at Wanaparthy Town which were purchased by virtue of the registered sale deed dated 10.01.2022 and his vendor has purchased the same in the year

2019. Petitioner made an Application for grant of building permission and permission was granted on 08.07.2022 for construction and while granting above construction permission, municipality had collected total amount of Rs.90,798/- from petitioner. It is submitted that petitioner having obtained construction permission started construction. While so, a notice was issued on 20.07.2022 directing petitioner to remove the construction within seven days otherwise the municipality will demolish the same and recover the expenditure of demolition from petitioner and the said notice has not been preceded by any show cause notice. Petitioner came to know that it was issued basing on a Writ Petition filed by the unofficial respondent. When petitioner challenged the said notice by filing Writ Petition No. 30616 of 2022, the same was set aside by imposing costs of Rs.10,000/- on the 2nd respondent and also directing the respondents to conduct inquiry after issuing notice to the petitioner. The 4th respondent filed Writ Petition No. 27951 of 2022 and the same was disposed of on 04.07.2022 directing the municipality to conduct enquiry into the complaint of the petitioner and to take action. It is submitted that after receiving the notice, petitioner submitted all title documents and construction permission and requested the 2nd respondent

to withdraw the notice dated 16.08.2022. However, the 2nd respondent stated that construction permission was already revoked by giving notice of revocation under Section 174(4)(10) of the Telangana Municipalities Act, 2019 and no such revocation order has been communicated to the petitioner. It is submitted that even before issuing the said revocation order dated 23.07.2022, no notice was issued and no enquiry whatsoever had been conducted by the 2nd respondent and second demolition notice dated 16.09.2022 was issued. Aggrieved thereby, petitioner filed Writ Petition No. 35492 of 2022 and the same was allowed by order dated 13.09.2022 directing the 2nd respondent to give notice against the revocation of the construction permission and pass fresh orders by considering the representation of the petitioner. He submits that thereafter the official respondents have issued notice for revocation of the construction permission. Though, petitioner has submitted his explanation, the respondents without considering the same, passed the order impugned dated 15.11.2022 revoking construction permission and are taking steps to demolish the construction made by the petitioner. He submits that the official respondents having regularised the plot issued these proceedings without any basis.

3. Learned Standing Counsel for the 2nd respondent Sri M. Rammohan Reddy submits that they will come up with a counter-affidavit.

4. The respondents have issued the present notice dated 15.11.2022 stating that the plot falls within the unapproved layout. Petitioner has purchased the property on 10.01.2022 and for regularisation of the said plot, the cut-off date is 26.08.2020. Hence, the respondents have revoked permission with immediate effect and directed the petitioner not to make any construction. Petitioner has purchased the property in the year 2022 and no doubt, as per G.O.Ms.No. 131, the cut-off date is 26.08.2020. Petitioner's land was converted from agricultural to non-agricultural in the year 2019. Converting the land from agriculture to non-agricultural purpose and regularisation of the said plot are two different aspects. Admittedly, the petitioner's land is in an unapproved layout and unless and until the said plots are approved, they are not entitled for any regularisation. As permission is granted without considering all these issues, the respondents have issued the notice and after taking the reply of the petitioner, they have revoked the building permission. This Court finds no illegality with the said order.

5. The Writ Petition is accordingly, dismissed, No order as to costs.

6. The Miscellaneous Applications, if any shall stand automatically closed.

SD/- K. VENKAIAH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. Two CCs to GP FOR MCPL ADMN AND URBAN DEV, High Court for the State of Telangana at Hyderabad. [OUT]
2. One CC to SRI.M.DAMODAR REDDY, Advocate [OPUC]
3. Two CD Copies
4. One spare copy

S.A

HVR

HIGH COURT

DATED:06/01/2023

ORDER

WP.No.46459 of 2022



**DISMISSING THE W.P
WITHOUT COSTS.**

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20/1/23
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