

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

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

**PRESENT
THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR**

APPLICATION Nos. 1110, 1111 and 1112 of 2010

IN

C.S. No. 7 OF 1958

Application No. : 1110 OF 2010

Between:

Hyderabad Metropolitan Development Authority, rep. by its Commissioner Block-A,
HMDA Complex, Tarnaka , Hyderabad – 500 007

.. Applicant / 3rd Party to 1096/2002

And

1. Kastajeevula Sangatana, Regd. No. 9016/99, Ranga Reddy District Committee, Rep. by its President, Sri T. Krishna S/o. Late T. Pochaiah, aged 43 years, R/o. H.No. 2-30, Kottagadda Village, Serilingampally Mandal, R.R.District.
2. Smt. Y. Anitha W/o. Y.V.N. Prabhaker, aged 40 years, Occ: Business, R/o. Flat No. 104, Regency Zeenath Apartments, Panjagutta, Hyderabad.
3. Smt. Laiqunnisa Begum S/o. Md. Arifuddin, aged 43 years, Housewife, R/o. H.No. 6-3-669/D, Panjagutta Main Road, Panjagutta, Hyderabad.
4. Smt. K. Sulochana W/o. K. Ganga Reddy ; aged 43 years, Occ: Agriculture, R/o. Plot No. 56, Snehanagar Colony, Street No. 8, Habsiguda, Hyderabad -7.
5. Smt. Nazia Parveen W/o. Mohd. Mujeebullah Shareef, aged 36 years, Occ: Housewife, R/o. H.No. 20-3-375, Moosa Bowli, Hyderabad.
6. My Palace Mutually Aided Coop Housing Society Ltd., Rep. by its President Sri Pad Deshpande, having its Office at Flat No. 202, III Floor, Pleasant Park, Shantinagar Colony Cross Roads, Hyderabad.

.. Respondents/ Applicants 1 to 5 and R 1 in Appln. No. 1096
of 2002

Application Under Order 22 Rule 10 r/w. Section 151 of the C.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass order as to :

- i) Why this application should not be complied;
- ii) to declare that the order dt. 29-10-2002 passed in application 1096/2002 CS No. 7 of 1958 is inoperative, null and void as per the declaration of the Division Bench dated 10-06-2003 passed in OSA Nos. 64, 65 & 66 of 2002 and batch and consequently terminate the above application, the order thereon and all subsequent proceedings pursuant to the order dt. 29-10-2002.

**Counsel for the Applicant : Sri PARSA ANANTHA NAGESHWAR RAO, for .
Sri V. NARASIMHA GOUD SC for HMDA**

Counsel for Respondent Nos. 3 & 4 : SRI MIR JAFFER ALI KHAN

Counsel for Respondent Nos. 1 & 5 : SRI CH. DHANAMJAYA

APPLICATION NO. 1111 OF 2010

Between:

Hyderabad Metropolitan Development Authority, rep. by its Commissioner Block-A,
HMDA Complex, Tarnaka , Hyderabad – 500 007

.. Applicant / 3rd Party to 1097/2002

And

1. Kastajeevula Sangatana, Regd. No. 9016/99, Ranga Reddy District Committee, Rep. by its President, Sri T. Krishna S/o. Late T. Pochaiah, aged 43 years, R/o. H.No. 2-30, Kottagadda Village, Serilingampally Mandal, R.R.District.
2. Smt. Y. Anitha W/o. Y.V.N. Prabhaker, aged 40 years, Occ: Business, R/o. Flat No. 104, Regency Zeenath Apartments, Panjagutta, Hyderabad.
3. Smt. Laiqunnisa Begum S/o. Md. Arifuddin, aged 43 years, Housewife, R/o. H.No. 6-3-669/D, Panjagutta Main Road, Panjagutta, Hyderabad.
4. Smt. K. Sulochana W/o. K. Ganga Reddy , aged 43 years, Occ: Agriculture, R/o. Plot No. 56, Snehanagar Colony, Street No. 8, Habsiguda, Hyderabad -7.
5. Smt. Nazia Parveen W/o. Mohd. Mujeebulah Shareef, aged 36 years, Occ: Housewife, R/o. H.No. 20-3-375, Moosa Bowli, Hyderabad.

6. My Palace Mutually Aided Coop Housing Society Ltd., Rep. by its President Sri Pad Deshpande, having its Office at Flat No. 202, III Floor, Pleasant Park, Shantinagar Colony Cross Roads, Hyderabad.

.. Respondents/ Applicants 1 to 5 and R 1 in
Application No. 1097 /2002

Application Under Order 22 Rule 10 r/w. Sec. 151 of the C.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass order

- i) Why this application should not be complied
- ii) to declare that the order dt. 29-10-2002 passed in application No. 1097 of 2002 CS No. 7 of 1958 is inoperative, null and void as per the declaration of the Division Bench dated 10-06-2003 passed in OSA Nos. 64, 65 & 66 of 2002 and batch and consequently terminate the above application, the order thereon and all subsequent proceedings pursuant to the order dt. 29-10-2002.

**Counsel for the Applicant : Sri Parsa Anantha Nageshwar Rao, for
SRI V. NARASIMHA GOUD SC FOR HMDA**

Counsel for the Respondent Nos. 3 & 4 : SRI MIR JAFFER ALI KHAN

Counsel for the Respondent Nos.1 & 5 : SRI CH. DHANAMJAYA

APPLICATION NO. 1112 OF 2010

Between:

Hyderabad Metropolitan Development Authority, rep. by its Commissioner Block-A,
HMDA Complex, Tarnaka , Hyderabad – 500 007 .. Applicant / 3rd
Party to 1098/2002

And

1. Kastajeevula Sangatana, Regd. No. 9016/99, Ranga Reddy District Committee, Rep. by its President, Sri T. Krishna S/o. Late T. Pochaiah, aged 43 years, R/o. H.No. 2-30, Kottagadda Village, Serilingampally Mandal, R.R.District.
2. Smt. Y. Anitha W/o. Y.V.N. Prabhaker, aged 40 years, Occ: Business, R/o. Flat No. 104, Regency Zeenath Apartments, Panjagutta, Hyderabad.

3. Smt. Laiqunnisa Begum S/o. Md. Arifuddin, aged 43 years, Housewife, R/o. H.No. 6-3-669/D, Panjagutta Main Road, Panjagutta, Hyderabad.
4. Smt. K. Sulochana W/o. K. Ganga Reddy, aged 43 years, Occ: Agriculture, R/o. Plot No. 56, Snehanagar Colony, Street No. 8, Habsiguda, Hyderabad -7.
5. Smt. Nazia Parveen W/o. Mohd. Mujeebullah Shareef, aged 36 years, Occ: Housewife, R/o. H.No. 20-3-375, Moosa Bowli, Hyderabad.
6. My Palace Mutually Aided Coop Housing Society Ltd., Rep. by its President Sri Pad Deshpande, having its Office at Flat No. 202, III Floor, Pleasant Park, Shantinagar Colony Cross Roads, Hyderabad.

.. Respondents/ Applicants 1 to 5 and R 1 in Appln.
No. 1098 / 02

Application Under Order 22 Rule 10 r/w. Sec. 151 of the C.P.C. praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass order

- i) Why this application should not be complied
- ii) to declare that the order dt. 29-10-2002 passed in application No. 1097 of 2002 CS No. 7 of 1958 is inoperative, null and void as per the declaration of the Division Bench dt. 10-06-2003 passed in OSA Nos. 64, 65 & 66 of 2002 and batch and consequently terminate the above application, the order thereon and all subsequent proceedings pursuant to the order dt. 29-10-2002.

**Counsel for the Applicant : SRI PARSA ANANTHA NAGESHWAR RAO FOR
Sri V. NARASIMHA GOUD, SC FOR HMDA**

Counsel for the Respondent Nos. 1 & 5 : SRI CH. DHANAMJAYA

Counsel for the Respondent Nos. 3 & 4 : SRI MIR JAFFER ALI KHAN

The Court made the following COMMON ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR

APPLICATION Nos.1110, 1111 & 1112 of 2010

IN

C.S.No.7 of 1958

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. Parsa Anantha Nageshwar Rao, learned Government Pleader attached to the office of learned Advocate General for the applicant.

Mr. Ch. Dhanamjaya, learned counsel for respondent No.6.

2. On 24.11.2023, this Court has passed the following order:

"Mr. V. Narasimha Goud, learned Standing Counsel for Hyderabad Metropolitan Development Authority for the applicants prays for and is granted a week's time by way of last indulgence. It is made clear that no further adjournment will be granted on the next date of hearing.

List next week."

3. However, despite the aforesaid order, again an adjournment was sought on 01.12.2023. Thereupon, the following order was passed:

"Mr. Harender Pershad, learned Senior Counsel and learned Special Government Pleader attached to the office of learned Advocate General for the applicant.

Mr. Gopal Bibarkar, learned counsel representing Mr. Ch.Dhanamjaya, learned counsel for the respondents.

Learned Special Government Pleader for the applicant prays for adjournment.

The aforesaid prayer is opposed by learned counsel for the respondents.

However, by way of indulgence, hearing is deferred.

List on 15.12.2023."

4. Again on 15.12.2023, an adjournment was sought for the following reason:

"Mr. D. Kiran, learned Assistant Government Pleader attached to the office of the learned Advocate General for the State of Telangana for the applicant.

Mr. Gopal Bibarkar, learned counsel represents Mr.Ch.Dhanamjaya, learned counsel for respondent No.6.

Learned counsel for applicant prays for accommodation on the ground that the matter has to be argued by the learned Advocate General.

List on 22.12.2023."

5. Thereafter, the matters have come up today.
6. Learned Government Pleader again prays for an adjournment on the ground that the matters have to be argued by the learned Additional Advocate General.

7. The aforesaid prayer has been opposed by the learned counsel for respondent No.6.

8. More than enough opportunities have been granted to the learned Government Pleader for the applicant to argue the matters.

9. These applications have been filed seeking recall of order dated 29.10.2002 passed in Application Nos.1096, 1097 and 1098 of 2002 in C.S.No.7 of 1958 as illegal and void as per the orders dated 10.06.2003 of a Hon'ble Division Bench of this Court in O.S.A.Nos.64, 65 and 66 of 2002.

10. The Supreme Court in **My Palace Mutually Aided Co-operative Society vs. B. Mahesh and others**¹ has held in paragraph No. 28 as under:

"28. Section 151 of the CPC can only be applicable if there is no alternate remedy available in accordance with the existing provisions of law. Such inherent power cannot override statutory prohibitions or create remedies which are not contemplated under the Code. Section 151 cannot be invoked as an alternative to

¹ 2022 SCC Online SC 1063

filing fresh suits, appeals, revisions, or reviews. A party cannot find solace in Section 151 to allege and rectify historic wrongs and bypass procedural safeguards inbuilt in the CPC."

11. In view of the aforesaid decision of the Supreme Court, since the applicant has an alternative efficacious remedy of filing an appeal against the aforesaid order, the applicant cannot be permitted to take recourse to the remedy provided under Section 151 of the Code of Civil Procedure, 1908.

12. In the result, these applications are disposed of with liberty to the applicant to file an appeal against the aforesaid order, if so advised.

Miscellaneous petitions, pending if any, shall stand closed. No order as to costs.

//TRUE COPY//

Sd/- B.S.CHIRANJEEVI,
JOINT REGISTRAR
SECTION OFFICER

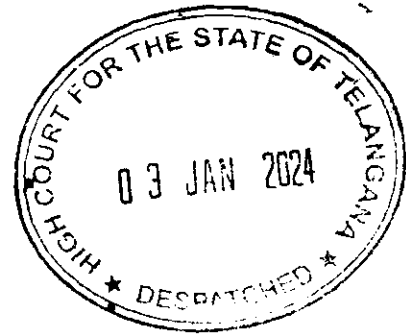
- To
1. Two CCs to Additional Advocate General , High Court for the State of Telangana at Hyderabad. (OUT)
 2. One CC to SRI. V.NARASIMHA GOUD, SC for HMDA (OPUC)
 3. One CC to SRI. JAFFER ALI KHAN, Advocate [OPUC]
 4. One CC to SRI. CH. DHANAMJAYA, Advocate [OPUC]
 5. Two CD Copies

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HIGH COURT

HCJ & NVSK J

DATED:29/12/2023



COMMON ORDER

Application Nos. 1110, 1111 and 1112 of 2010
In

C.S.No. 7 of 1958

DISPOSING OF THE ALL APPLICATIONS

⑧
MA
3/1/24.