

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

**THURSDAY, THE FOURTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 55 OF 2024

Between:

Hamed Pasha, S/o Late Ameen Pasha, aged about 38 years, Occ. Business, R/o H.No.17-1-347/348, Khalender Nagar, Santoshnagar, Saidabad, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary to Government, Municipal Administration Department, Secretariat, Hyderabad.
2. The Hyderabad Metropolitan Development Authority, Rep.by its Metropolitan Commissioner, Office at Swarna Jayanti Complex, Sanjeeva Reddy Nagar, Ameerpet, Telangana State.

...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 or Order or Direction more particularly one in the nature of WRIT OF MANDAMUS declaring the proposed action of the Respondent No.2 in acquiring the property of the petitioner bearing Plots No.10 and 11, admeasuring 563 Sq.yds., in Sy.No.34/1 and 34/2, Opp. Al Garden, Miralam Tank, Hyderabad without notice and without following due process of law as illegal and arbitrary and consequently direct the Respondent No.2 acquire the property of the petitioner bearing Plots No.10 and 11, admeasuring 563 Sq.yds., in Sy.No.34/1 and 34/2, Opp. Al Garden, Miralam Tank, Hyderabad by following due process of law.

IA NO: 1 OF 2024

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 Respondent No.2 not to demolish the property of the petitioner bearing Plots No.10 and 11, admeasuring 563 Sq.yds., in Sy.No.34/1 and 34/2, Opp. Al Garden, Miralam Tank, Hyderabad.

Counsel for the Petitioner : M/s.ABDUL NAJEEB KHAN

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

Counsel for the Respondent No.2 : SRI V.NARASIMHA GOUD, SC FOR HMDA

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.55 of 2024

ORDER:

This Writ Petition is filed for issuance of a *Writ of Mandamus* to declare the action of the 2nd respondent in trying to dispossess the petitioner from his property bearing plot Nos.10 and 11 admeasuring 563 sq. yards in survey No.34/1 and 34/2, situated at opposite: A1 Garden, Miralam Tank, Hyderabad, without issuing any notice and without following due process of law, as being illegal, and arbitrary.

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development Department appearing on behalf of respondent No.1, Sri V.Narasimha Goud, learned Standing Counsel appearing on behalf of respondent No.2, 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 his father late Ameen Pasha had purchased two different extents of land i.e., 430 sq. yards and 133 sq. yards, in survey Nos.34/1 and 34/2 situated at Bom-Ruknud-Dowla village, Rajendeernagar Mandal, Ranga Reddy District, for valid consideration from one D.Pratap Reddy, under two separate registered sale deeds dt.09.11.1992 and dt.26.05.1993; that the petitioner's father also obtained regularization of the said plots during the year 2016 under Layout Regularization Scheme(LRS) introduced by the

Government; that the petitioner is carrying on business in the name and style of M.S.Steels in the subject property; and that the 2nd respondent-authority is trying to dispossess the petitioner from the aforesaid property under the pretext of road widening, without following due process of law.

4. Petitioner further contends that the officials of the 2nd respondent-authority had made a visit to the petitioner's property on 30.12.2023 with their men and machine to physically dispossess the petitioner from the subject property.

5. *Per contra*, Sri V.Narasimha Goud, learned Standing Counsel appearing on behalf of the 2nd respondent while denying and disputing the claim of petitioner of being dispossessed by the authorities for undertaking are widening of the road, would however, contend that the authorities would follow due process of law in the event of any requirement to acquire the petitioner's land for the aforesaid purpose.

6. Learned Standing Counsel further submits that before undertaking any exercise of acquiring the land, the authorities are also required to verify the claim being made by the persons, who are in possession of the property to be acquired, and for the said purpose, the authorities are also required to cause verification of the title of the said persons, as to whether they are lawful owners or encroachers.

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

8. While the respondents admit to the fact of the authorities requiring to follow due process of law in the event the authorities intend to take possession of the property belonging to a citizen, insofar as the claim of the respondents that the authorities are required to verify the title as to whether the person in possession of the property is a lawful owner or an encroacher, it is settled position of law that even for dispossessing an encroacher or trespasser, authorities are required to follow due process of law.[see **Lallu Yeshwant Singh v/s. Rao Jagdish Singh & Ors.**¹ and **Meghamala v/s. G.Narasimha Reddy**²]

9. Further, the aforesaid view of the Hon'ble High Court has been followed recently in a judgment rendered by a Division Bench of this Court(to which TVK,J is a member) in **M/s. Visweswara Infrastructure Pvt. Ltd., and others vs. The Telangana State Industrial Infrastructure Corporation & others**³.

10. Having regard to the settled position of law, since the respondents-authorities have now indicated to this Court that the authorities would follow due process of law, in the event of authorities intending to acquire the land of the petitioner for the purpose of road widening, this Court is of the view that the respondents-authorities are to be directed to follow due process of law, even if the petitioner is to be

¹ AIR 1968 SC 620

² (2010) 8 SCC 383

³ Judgment dt. 24.08.2023 in WA.No.697 of 2023

treated as an encroacher, before taking any action in respect of the petitioner's property.

11. Subject to the above observations and directions, the Writ Petition is disposed of. No order as to costs.

12. It is made clear that this Court has not expressed any opinion on the merits of the claims of the petitioner.

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

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SD/- P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

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SECTION OFFICER

To,

1. The Principal Secretary to Government, Municipal Administration Department, Secretariat, State of Telangana, Hyderabad.
2. The Metropolitan Commissioner, Hyderabad Metropolitan Development Authority, Office at Swarna Jayanti Complex, Sanjeeva Reddy Nagar, Ameerpet, Telangana State.
3. One CC to SRI A.NAJEEB KHAN, Advocate. [OPUC]
4. Two CCs to GP FOR MCPL ADMN URBAN DEV, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to SRI V.NARASIMHA GOUD, SC FOR HMDA. [OPUC]
6. Two CD Copies.

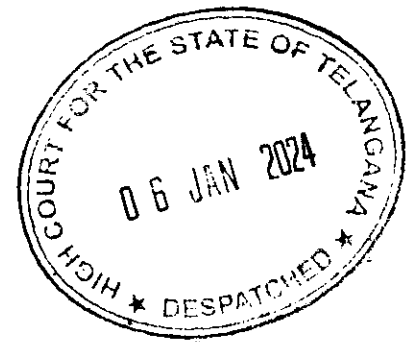
BSK
GJP

N.A.

HIGH COURT

DATED:04/01/2024

CC TODAY



ORDER

WP.No.55 of 2024

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

⑪ VW
6/1/24