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

TUESDAY ,THE TWENTIETH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 3613 OF 2024

Between:

T. Sashikant, S/o. T. Ravindranath Aged. 59 years Occ. Doctor R/o. H.No. 18, Vayupuri Air force officers Colony Housing Society Malkajgiri, Hyderabad 500094.

...PETITIONER

AND

1. State of Telangana, Rep by Principal Secretary Municipal and Urban Administration Department Secretariat Buildings, Saifabad. Hyderabad.
2. Greater Warangal Municipal Corporation, Warangal Represented by its Commissioner
3. Commissioner, Greater Warangal Municipal Corporation Warangal Urban District
4. City Planner, Greater Warangal Municipal Corporation Warangal Urban 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 any appropriate Writ, order or direction, one more particularly one in the nature of writ of Mandamus or any other writ including or any combination of writs declaring the act of the Respondent authorities i.e. Respondent No. 2 and 3 in issuing proceedings dt.26.09.2023 in File No.007519/BP/DTCP/3006/0268/2023 in furtherance to Application No.007519/BP/DTCP/3006/0268/2023 dt.02.07.2023 as arbitrary, illegal, unconstitutional apart from being contrary to the provisions of the Telangana Municipalities Act,2019, setting aside the same and consequently set aside the same, directing the Respondent No. 2 and 3 to grant building permission in Application No. 007519/BP/DTCP/3006/0268/2023 dt.2.07.2023 in respect of subject property in favor of the Petitioner

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 Respondent No .2 and 3 to grant building permission in application No.007519/BP/DTCP/3006/0268/2023 dated 02.07.2023 in respect of subject property in favor of the Petitioner

Counsel for the Petitioner: SRI N. NAVEEN KUMAR

Counsel for the Respondent No.1: GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT

Counsel for the Respondent Nos. 2to4: SRI S. SURENER REDDY, SC FOR MUNICIPAL CORPORATION

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.3613 of 2024

ORDER:

This Writ Petition is filed for issuance of a Writ of Mandamus declaring the act of respondent authorities, in particular respondent Nos.2 and 3, in issuing proceedings dated 26-09-2023 rejecting the building permission application made by the petitioner on 02-07-2023 as illegal, arbitrary, unconstitutional apart from being contrary to the provisions of the Telangana Municipalities Act, 2019, with a consequential relief to set aside the same.

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development appearing on behalf of respondent No.1 and Sri S.Surender Reddy, learned Standing Counsel appearing on behalf of respondent Nos.2 to 4, and perused the record. With the consent of learned counsel appearing for the parties, the Writ Petition is taken up for hearing and disposal at admission stage.

3. Petitioner contends that being the absolute owner and possessor of property bearing House No.15-3-999 (previously Municipal No.15-156/1 & 2) Rangampet, Warangal

admeasuring to an extent of 1900 sq. yards, he had approached the respondent authorities and submitted an application seeking grant of permission for construction of commercial building consisting of 1 cellar + 1 ground + 3 upper floors; and that the respondent authorities had issued a shortfall intimation letter dated 12-07-2023 noting therein certain shortfalls.

4. Petitioner further contends that in order to comply with the aforesaid shortfall noted in the intimation letter dated 12-07-2023, petitioner had made a visit to the office of the 2nd respondent authority and submitted documents in order to comply with the shortfalls noted.

5. Petitioner further contends that notwithstanding the submission of the documents to remove the shortfalls noted in the proceedings dated 12-07-2023, the 2nd respondent authority has issued impugned proceedings dated 26-09-2023 rejecting the application made by the petitioner for grant of permission on the ground that the subject site is falling in Government land.

6. Petitioner further contends that the said objection raised by the 2nd respondent, while considering the application made by the petitioner, was subject matter of a Writ Petition before this Court in W.P.No.2568 of 1992, wherein this Court. by order dated

07-11-1992, had negatived the claim of the Government and as such, the said objection is no longer sustainable.

7. Learned counsel for the petitioner further contends that the decision of this Court in W.P.No.2568 of 1992 has also been brought to the notice of the respondent authorities in response to the shortfall intimation issued and without considering the decision of this Court and the same having attained finality as brought to the notice of the Authorities, the impugned proceeding has been issued.

8. Per contra, learned Standing Counsel appearing on behalf of respondent Nos.2 to 4, on the other hand, submits that in response to the shortfall intimation issued vide proceedings dated 12-07-2023, the petitioner did not submit any documents complying with the shortfalls as noted in the shortfall intimation which is required to be done through online process by uploading various documents.

9. Learned Standing Counsel further submits that since the petitioner did not upload any documents in response to the shortfall intimation through TS-bPASS online process, the Authorities, by the impugned order, have rejected the application made by the petitioner for grant of building permission.

10. Learned Standing Counsel further submits that if the petitioner makes a fresh application with all relevant documents and by paying necessary fee, the Authorities would consider the application on its merit afresh.

11. I have taken note of respective contentions urged.

12. Though petitioner, in response to the shortfall intimation letter, claims to have approached the respondent authorities in person and submitted documents to comply with the objections raised in the shortfall intimation letter, learned counsel for petitioner fairly submits that there is no acknowledgment obtained by the petitioner for submission of said documents.

13. Learned counsel for the petitioner further fairly submits that except approaching the respondent authorities in person, the petitioner did not takes steps to comply with the objections raised through TS-bPASS online process.

14. However, it is to be noted that the ground of rejection as noted by the respondent authority in the impugned proceeding is by stating that the site is falling in Government land. The building permission application submitted by the petitioner shows that he had applied for grant of building permission in

respect of land in Sy.No.725 with Door No.15-3-99 situated at Rangampet Main Road, beside Regional Library, Warangal, and the subject property was matter of dispute and considered by this Court in W.P.No.2568 of 1992, and thus, the claim of the respondent authorities in rejecting to grant permission on the ground that the subject land is Government land, cannot be considered as a valid ground any more.

15. However, taking note of the fact that the building permission application submitted by the petitioner having been rejected by the impugned proceeding, this Court is of the view that the petitioner should be directed to approach the respondent authorities by submitting fresh application enclosing therewith all the relevant documents including the order of this Court in W.P.No.2568 of 1992 as well as Encumbrance Certificate issued by the Sub-Registrar indicating that the subject property is not placed in the prohibitory list, and seek for grant of building permission.

16. Upon petitioner approaching the respondent authorities and making application with all the aforesaid documents and information, the 2nd respondent authority shall consider the same by looking into the orders of this Court in W.P.No.2568 of 1992

as well as the Encumbrance Certificate issued by the Sub-Registrar, which petitioner claims does not indicate the subject property being placed under the prohibitory list and grant building permission, if the said application is otherwise in order.

17. Subject to above observations and direction, the Writ Petition is disposed of. No costs.

18. As a sequel, miscellaneous petitions pending if any shall stand closed.

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

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary Municipal and Urban Administration Department Secretariat Buildings, Saifabad. Hyderabad.
2. The Commissioner, Greater Warangal Municipal Corporation, Warangal
3. The Commissioner, Greater Warangal Municipal Corporation Warangal Urban District
4. The City Planner, Greater Warangal Municipal Corporation Warangal Urban District.
5. Two CCs to GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT ,High Court for the State of Telangana, at Hyderabad [OUT]
6. One CC to SRI. N NAVEEN KUMAR Advocate [OPUC]
7. Two CD Copies

B M
GJP

HIGH COURT

DATED:20/02/2024



ORDER

WP.No.3613 of 2024

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

(10) VLV
5/3/24