

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

MONDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION Nos: 13403 AND 14389 OF 2008

W.P.No: 13403 OF 2008

Between:

1. Fakruddin M.Khambaty, S/o.Mohamedali Khambatry Business Resident of Mohamedi Enclave, Wellington Road,Kear Kirkee Gate,AOC Centre, Secunderabad
2. Smt.Sakina F.Kambatry, W/o.Fakruddin M Khambaty Housewife Resident of Mohamedi Enclave, Wellington Road,Kear Kirkee Gate,AOC Centre, Secunderabad
3. Kaiser K.Sahiwala, S/o.Kurban Hussain Sahiwala Business Resident of Plot No.18, Durga Vihar colony Gunrock Avenue, Trimulgherry, Secunderabad
4. Smt.Fazela K.Sahiwala, W/o.Kaiser K.Sahiwala Housewife Resident of Plot No.18, Durga Vihar colony Gunrock Avenue, Trimulgherry, Secunderabad

...PETITIONERS

AND

1. Union of India., rep.by its Secretary,Ministry of Railways, New Delhi
2. South Central Railway, rep.by its General Manager, Secunderabad
3. South Central Railway, Rep.by its D.E.N.Central, Secunderabad
4. South Central Railway , rep.by its A.E.N.East, Secunderabad

...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 writ order or direction preferably a writ in the nature of mandamus declaring the action of the petitioners in high handedly demolishing a portion of the petitioners property bearing Municipal No.10-11-170/33 (old No.11-170/33) in Sy.No.130 ademasuring 129.00 sq.yards or 107.85 sq.meters situated at Fatehnagar Main Road, Under Fatehnagar village, Balanagar Mandal, Kukatpally Municipality, Ranga Reddy District as illegal, arbitrary, violative of Articles, 14 and 300-A of the Constitution of India and consequently direct the

respondents not to further demolish or dispossess the petitioners in respect of the petitioners said property

I.A. NO: 1 OF 2008(WPMP. NO: 17294 OF 2008)

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 not to further demolish or dispossess the petitioners in respect of petitioners property namely property bearing Municipal 10-11-170/33 (Old No.11-170/33) in Sy.No.130 admeasuring 129.00 sq.yards or 107-85 sq.meters situated at Fatehnagar Main Road, under Fatehnagar village, Balanagar Mandal,Kukatpally Municipality , Ranga Reddy District pending disposal of the above writ petition

I.A. NO: 2 OF 2008(WPMP. NO: 21587 OF 2008)

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 permit the petitioners herein to fence the property bearing Municipal No.10-11-170/33(old No.11-170/33) in Survey No.130, admeasuring 129.00 sq.yards or 107.85 sq.meters, situated at Fatehnagar Main Raod, Under Fatehnagar Village, Balanagar Mandal, Kukatpally, Ranga Reddy District pending disposal of the above writ petition

Counsel for the Petitioner: Ms. P. KEERTHANA REP SRI P. VENUGOPAL
Counsel for the Respondents: SRI SANJEEV GILLELLA
(CENTRAL GOVERNMENT COUNSEL)

W.P. NO: 14389 OF 2008

Between:

H.K.Adnan, S/o.S.K.Huseini Business resident of 142/C, Innovation Residency, Prenderghast Road, Secunderabad.

...PETITIONER

AND

1. Union of India, represented by its Secretary, Ministry of Railways, New Delhi.
2. South Central Railway, represented by its General Manager, Secnderabad.
3. South Central Railway, represented by its D.E.N., Central, Secnderabad.
4. South Central Railway, represented by its A.E.N., East, Secnderabad.

...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 writ, order or direction, preferably a Writ in the nature of Mandamus declaring the action of the respondents in high handedly demolishing a portion of the petitioners property bearing No.10-11-170/34, consisting of Ground Floor and First Floor in Survey No. 130, admeasuring 117.00 sq. yards or 97.81 sq. meters, situated at Fatehnagar Village, Balanagar, GHMC, Kukatpally Circle, Ranga Reddy District, as illegal, arbitrary violative of Articles 14 and 300-A of the Constitution of India and consequently direct the respondents not to further demolish or dispossess the petitioner in respect of the petitioners said property

I.A. NO: 1 OF 2008(WPMP. NO: 18584 OF 2008)

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 not to further demolish or dispossess the petitioner in respect of petitioner's property, namely bearing No.10-11-170/34, consisting of Ground Floor and First Floor in Survey No. 130, admeasuring 117.00 sq. yards or 97.81 sq. meters, situated at Fatehnagar Village, Balanagar, GHMC, Kukatpally Circle, Ranga Reddy District, pending disposal of the above Writ Petition

I.A. NO: 2 OF 2008(WPMP. NO: 21592 OF 2008)

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 permit the petitioner herein to fence the petitioner's property namely house bearing No.10-11-170/34 consisting of Ground Floor and 1st Floor in Sy.No.130 admeasuring 117.00 Sq.yards or 97.81 sq meters situated at Fatehnagar(V) Balanagar GHMC Kukatpally Circle Ranga Reddy District pending disposal of the wp

Counsel for the Petitioner: Ms. P. KEERTHANA REP SRI P. VENUGOPAL

**Counsel for the Respondents: SRI SANJEEV GILLELLA
(CENTRAL GOVERNMENT COUNSEL)**

The Court made the following: COMMON ORDER

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT PETITION Nos.13403 and 14389 of 2008

COMMON ORDER:

Since the issue involved in both the writ petitions is one and the same, they are heard together and being disposed of by way of this common order.

2. W.P.Nos.13403 of 2008 and 14389 of 2008 are filed seeking the following relief:

"....to issue any writ, order or direction preferably a writ in the nature of mandamus declaring the action of the petitioners in high handedly demolishing a portion of the petitioners property bearing Municipal Nos.10-11-170/33 (Old No.11-170/33) and 10-11-170/34 consisting of Ground Floor and First Floor in Sy.No.130 admeasuring 129.00 sq. yards or 107.85 sq. meters and 117.00 sq. yards or 97.81 sq. meters situated at Fatehnagar Main Road, Under Fatehnagar Village, Balanagar Mandal, Kukatpally Municipality, Ranga Reddy District as illegal, arbitrary, violative of Articles 14 and 300A of the Constitution of India and consequently direct the respondents not to further demolish or dispossess the petitioners in respect of the petitioners said property...."

3. Considered the submissions of the learned counsel for the respective parties and perused the record.

4. The case of the petitioners is that they are the owners and possessors of property bearing Municipal No.10-11-170/33 (Old

No.11-170/33) consisting of Ground Floor and First Floor in Sy.No.130 admeasuring 129.00 sq. yards and Municipal No.10-11-170/34 117.00 sq. yards situated at Fatehnagar Main Road, under Fatehnagar Village, Balanagar Mandal, Kukatpally Municipality, Ranga Reddy District, having purchased the same by way of registered sale deeds bearing document Nos.5303 of 1990 and 199 of 2008. It is the further case of the petitioners that the said properties are abutting to the railway lane leading from Secunderabad to Shankarpally and the respondent authorities without issuing any notice have high-handedly demolished the said properties on 19.06.2008.

5. Ms. P. Krishna Keerthana, learned counsel appearing for the petitioners, vehemently contended that the petitioners have purchased the said properties by virtue of registered sale deeds, and the action on the part of the respondents in demolishing the existing structures without issuing any notice amounts to violation of principles of natural justice.

6. A counter affidavit has been filed by the respondents stating that the properties of the petitioners are encroaching the railway property between Moula Ali-Sanathnagar bypass line and the said encroachments were identified by the Railways after a joint survey as per the plan/sketch of the Assistant

Director, Revenue Survey and Land Records, Ranga Reddy District and the said plan has been filed as annexure R-1, wherein it clearly indicates the extent of land owned by the Railways abutting the railway track and hence, the petitioners are liable to be evicted from the said premises. It is further stated that the respondents have issued notices in Form-A on 10.02.2006 and Form-B on 03.09.2007, but the petitioners have not submitted any explanation in support of their claims that the said properties would not fall within the boundaries of the Railways and therefore, the respondents have proceeded to demolish the said properties in accordance with law.

7. Except filing of the registered sale deeds, the petitioners have not filed any documents or the plans approved by the Municipal Corporation in support of their claim, so as to examine from what date the structures are existing in the said premises and to examine whether the respondents have followed due process of law before demolishing the structures and the said issues can be examined only after producing evidence.

8. In view of the above, these two writ petitions are closed leaving it open to the petitioners to agitate their claims before the competent Court for claiming compensation and damages, if the respondents have demolished structures illegally without

following the procedure laid down under law. There shall be no order as to costs.

9. Miscellaneous Petitions, if any, pending in these writ petitions shall stand closed.

SD/- T. JAYASREE
ASSISTANT REGISTRAR
SECTION OFFICER

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To,

1. One CC to SRI. P. VENUGOPAL, Advocate [OPUC]
2. One CC to SRI. SANJEEV GILLELLA (CENTRAL GOVERNMENT COUNSEL) (OPUC)
3. Two CD Copies

BM

K.P.

HIGH COURT

CVBRJ

DATED: 09/09/2024



COMMON ORDER

WP.No's. 13403 AND 14389 of 2008

CLOSING BOTH THE WRIT PETITIONS
WITHOUT COSTS

5 Copies

del
19/11/24.