

**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: 33856 OF 2023

Between:

1. V. Srinivas Rao, S/o. venkateshwarulu, Aged 48 yrs, Occ. pvt. employee, R/o. H. No.9-108, Shivanarayanapuram Colony, Badangpet, Ranga Reddy District.
2. P. Krishna Mohan, S/o.P.Venkateshwar Rao, Aged 55 yrs, Occ.pvt. employee, R/o. H.No9-111, Shivanarayanapuram Colony, Badangpet, Ranga Reddy District.
3. M.Kameshwar Rao, S/ o.Vishewanadam, Aged 50 yrs, Occ.business, R/o. H.No.9-107, Shivanarayanapuram Colony, Badangpet, Ranga Reddy District.
4. Vejendla Karthik @ Karthik Sharma, S/o. Srikanth, age. 27 years, Occ. Business, R/o. D.no. 9-1-2, plot no. 2, Sri Venkatawara Colony, shivannarayanapuram, behind Kasibugga Suvalayam Badangpet, Ranagreddy District

...PETITIONERS

AND

1. The State of Telangana, rep. by its Principal Secretary, Municipal Administration and Urban Development (MA&UD) Department, Secretariat, Hyderabad.
2. The Badangpet Municipal Corporation, rep. by Its Commissioner, Badangpet, R.R. 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 a writ or direction preferably a writ in the nature of WRIT OF MANDAMUS or any other appropriate writ declaring action of the respondent No.2 in diverting the underground waste water lane through our residential houses of Shivanarayanapuram Colony, Badangpet, R.R. District, instead of constructing water channel through the natural flow which is flowing for several decades and also in not considering our representation/objections submitted on 04-12-2023 as illegal, arbitrary, unconstitutional, CONSEQUENTLY to direct the 2nd respondent to drop the present proposed nala construction in our colony and to laid the same existing free and natural flow of water in the straightway instead of directing curves and reduce the costs of public money.

IA NO: 1 OF 2023

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 stay of the construction of underground waste water line through petitioners residential houses of Shivanarayanapuram Colony, Badangpet, R. R. District pending disposal of writ petition, pending disposal of the above writ petition.

Counsel for the Petitioners: SRI G.L. NARASIMHA RAO

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

**Counsel for the Respondent No.2: SRI PHANINDRA BHARGAV, SC FOR
BADANGPET MUNICIPAL CORPORATION**

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.33856 of 2023

ORDER:

This Writ Petition is filed for issuance of a *Writ of Mandamus* to declare the action of the 2nd respondent in diverting the underground waste water lane through the petitioners' residential houses of Shivanarayanapuram Colony, Badangpet, Ranga Reddy District, in stead of constructing water channel through the natural flow which is in existence for several decades and also in not considering the representation/ objections submitted by the petitioners on 04.12.2023, as being illegal, arbitrary and unconstitutional.

2. Heard learned counsel for the petitioners, learned Government Pleader for Municipal Administration and Urban Development appearing for respondent No.1 and Sri Phanindra Bhargav, learned Standing Counsel, appearing for respondent No.2 and perused the record.

3. Petitioners contend that they are all the residents/owners of Venkateshwara Colony, Badangpet, Ranga Reddy District, whereat the 2nd respondent – municipality has undertaken work of diversion of rain water and other waste water through underground water system passing from the petitioners colony, i.e., Venkateshwara Colony, against the common gravity and diverting water flow into petitioners lane instead of present

free flow from the straight away from the temple lands and causing mental agony to the petitioners.

4. Petitioners further contend that as per the natural stream, the waste water and drainage water from upper colonies used to flow from the temple lands and the respondents-authorities, in stead of undertaking work of laying pipeline through the temple lands, are undertaking such works passing through the roads of the petitioners colony, thereby, wasting the public money.

5. Petitioners further contend that they raised an objection to the aforesaid work being undertaken by the respondents by submitting a representation dt.04.12.2023 requesting to strengthen the natural stream and old existing pipeline, in existence over several decades and further requested not to divert the water or change the alignment of stream through the petitioners' residential houses situated upside of the stream.

6. Petitioners further contend that in spite of the petitioners bringing to the notice of the 2nd respondent authority, the aforesaid fact, no action is taken, while the work of digging of the roads up to the depth of 20 feet and width of 20 feet on the existing road of 25 feet is being carried on.

7. A counter affidavit on behalf of the 2nd respondent is filed.

8. By the said counter affidavit, the respondents have stated that on submission of technical proposals and obtaining administrative sanction, the works of improvement of storm water drainage in Hyderabad Agglomeration area has been taken up and in respect of the drain from Suma Paradise to Sita Meadows, Rs.100 lakhs was sanctioned for construction of a box type drain and Rs.990.63 lakhs was sanctioned for construction of box type drain from Peddabavi Malla Reddy Gardens to Sita Homes Phase III in the 2nd respondent municipality under SNDP under substitute proposals sanctioned, *vide* G.O.Rt.No.13, MA & UD (GHMC-II) Department, dt.12.01.2022.

9. By the counter affidavit, the respondents further state that the proposed box type drain which starts from upstream area of Suma Paradise merges into Meerpet talab located on downstream and the alignment of drain at Venkateshwara Colony and Shivanarayanapuram Colony is considered only through the colony roads, instead of Temple premises, as the same would avoid the requirement of land acquisition and for faster execution of the project providing relief to the colonies from flood.

10. By the counter-affidavit, the respondents further state that the work is in progress and around 70% of the work is completed in the approved alignment which is all along the existing road.

11. By the said counter, it is also stated that due to construction of box type drain, there may not be any damage to the houses and will not cause any harm to the residents of the colony people; that during the execution of work, if any existing sewer lines, water supply lines and electrical lines and poles, which are getting damaged, are taken up by SNDP in supervision with the concerned department as per G.O.Rt.No.157, MA&UD (GHMC-II) Department dt.09.03.2022.

12. Learned Standing Counsel appearing on behalf of respondent No.2 further submits that while the work of 370 meters of the box type drain is completed, the work is in progress for 190 meters; and that the entire work of constructing a box type drain would be completed by the end of January, 2024. Learned Standing Counsel further submits that on completion of box type drain, the entire area through which the box type drain is constructed, would become usable and inconvenience to the Venkateshwara Colony and Shivanarayanapuram Colony would not arise.

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

14. The aspects as to whether the drain should pass through the roads of Venkateshwara Colony and Shivanarayanapuram Colony or through the lands of temple located behind the colony of the petitioners are all technical matters and cannot be gone into by this Court and it is for the

concerned authorities who are competent to take the said factors into consideration while making proposal and obtaining necessary sanction.

15. Though, the petitioners claim that if the authorities have taken up the work of laying of the sewer line passing through the temple land, would result in lesser cost, it is not for this Court to examine the said aspect as to whether the construction as proposed by the petitioners would result in lesser cost or whether the proposal made by the respondents is more feasible being technical in nature.

16. Further, since, the respondents-authorities by their counter-affidavit have stated that major part of the work of construction of box type drain has already been completed, and that the entire work would be completed by the end of January, 2024, this Court is of the view that the action of the respondents by not acceding to the request made by the petitioners cannot be found fault with.

17. However, having regard to the fact that the 2nd respondent authority has indicated to this Court that the entire construction would be complete by the end of January, 2024, this Court is of the view that the respondents should be directed to complete the work within the time as indicated by them in the counter affidavit filed into this Court, as hardship is being caused to the residents of the colony having required to cross the

trenches that dug for construction of box type drain, to have access to their houses.

18. Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

19. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

SD/- K. AMMAJI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development (MA&UD) Department, The State of Telangana, Secretariat, Hyderabad.
2. The Commissioner, The Badangpet Municipal Corporation, Badangpet, R.R. District.
3. One CC to SRI G.L. NARASIMHA RAO, Advocate [OPUC]
4. One CC to SRI PHANINDRA BHARGAV, SC FOR BADANGPET MUNICIPAL CORPORATION [OPUC]
5. Two CCs to GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT, High Court for the State of Telangana. [OUT]
6. Two CD Copies

BN
GJP

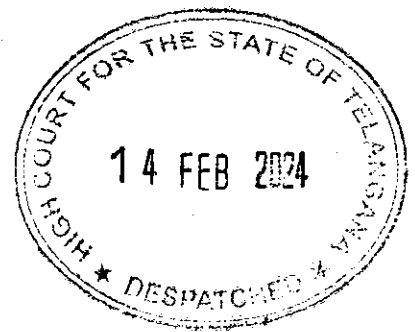


HIGH COURT

DATED:04/01/2024

ORDER

WP.No.33856 of 2023



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

9
~~14 FEB 2024~~
18/06/2024