

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

**MONDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION NO: 35280 OF 2024

Between:

P.G.Rohini Kumari, W/o B.Vidhyasagar Reddy, Aged about 63 Years, Occ
Retd Service, R/o H.No.1-7-1/41, Srinivasnagar colony, Temple Alwal,
Secunderabad -500 010

...PETITIONER

AND

1. The State of Telangana, rep by its Principal Secretary, Municipal
Administration Department, Secretariat, Hyderabad
2. The Commissioner, Greater Hyderabad Municipal Corporation (GHMC) Tank
Bund Road, Hyderabad
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation (GHMC)
Kuktpally Zone, Hyderabad.
4. The Deputy Commissioner, Greater Hyderabad Municipal Corporation
(GHMC) Circle -27, Alwal, 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 Writ Order or Direction more particularly one in the nature of
WRIT OF MANDAMUS, declaring the action of the 3rd Respondent in rejecting the
building construction permission vide file No. 013061/ GHMC/ 6421/ KPL2/2023-
BP dt.20.12.2023 for construction of residential building in Plot No.16/1 vide
House bearing No.5-891/17/1/16/1 in survey No.21 part, 576 part and 577 situated
at Ganga Avenue, Alwal, Secunderabad- 10 of the petitioner is illegal, arbitrary
and violation of the Telangana Building Rules 2012 and consequently direct the
Respondent No.3 to grant building construction permission in favour of the
petitioner in Plot No.16/1 in survey No.21 part, 576 part and 577 situated at Ganga
Avenue, Alwal, Secunderabad- 10.

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 official Respondent No.1 to 4 to grant building permission in favour of the petitioner in respect of Plot No.16/1 in survey No.21 part, 576 part and 577 situated at Ganga Avenue, Alwal, Secunderabad -10, pending disposal of the main writ petition.

Counsel for the Petitioner: SRI K.JAWAHAR

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

**Counsel for the Respondent Nos.2 TO 4: SRI K.RAVI MAHENDER, SC FOR
GHMC**

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION No.35280 OF 2024

ORDER:

Heard Sri K.Jawahar, learned counsel for the petitioner and Sri K.Ravi Mahender, learned Standing Counsel appearing for respondent Nos.2 to 4.

2. Petitioner is claiming that she is the absolute owner and possessor of House bearing No.5-891/17/1/16/1, plot No.16/1, admeasuring 410 square yards, in Survey Nos.21 part, 576 part and 577, situated at Ganga Avenue, Old Alwal, Alwal Village and Municipality, Malkajgiri Mandal, Ranga Reddy District, on the strength of registered Sale Deed bearing document No.5238 of 2007, dated 14.12.2007. She has submitted an application bearing No.013061/GHMC/6421/KPL2/2023-BP, dated 20.11.2023 seeking permission for construction of house under TS-bPASS. Respondent No.3 has issued Shortfall Intimation Letter, dated 04.12.2023 stating that plot boundaries does not tally with the site plot numbers. According to the petitioner, she has submitted objections along with documents. Without considering the same, respondent No.3 has issued the impugned Rejection Letter in File

No.013061/GHMC/6421/KPL2/2023-BP, dated 20.12.2023 on the very same ground. Challenging the said rejection order, dated 20.12.2023 of respondent No.3, petitioner filed the present Writ Petition.

3. Learned counsel for the petitioner would contend that the petitioner obtained regularization proceedings *vide* proceedings, dated 01.11.2012 with the Commissioner, Greater Hyderabad Municipal Corporation by paying an amount of Rs.2,34,882/- . Now, at the instance of Ganga Avenue Residents Welfare Association, respondent No.3 rejected the application submitted by the petitioner without considering the said regularization proceedings, dated 01.11.2012.

4. Whereas, Sri K.Ravi Mahender, learned Standing Counsel for respondent Nos.2 to 4 submitted instructions of Assistant City Planner, Kukatpally Zone, wherein it is stated that the Ganga Avenue Residents Welfare Association has submitted two representations, dated 03.11.2023 and 13.12.2023 to the Town Planning Officer and the Deputy Commissioner, Alwal, Hyderabad respectively, stating that the

developer Manohar Rao sold the park area land as parts and details of the property are as under:

SL.No.	Plot No.	Name of the purchaser	Extent of land
1.	16/1	P.G.Rohini Kumari	410 square yards.
2.	16/2	Mohammed Fasi Ahmed Subhani	186 square yards
3.	16/2 Part	M.Vijay Kumar	98 square yards
4.	90/A	N.Ram Mohan Reddy	678 square yards.

Learned Standing Counsel also produced copy of layout issued by Alwal Municipality to show that there is no plot No.61/1 and it is a park area. He also produced copy of notice, dated 12.12.2023, issued to the petitioner and others asking them to submit documents for verification. Thereafter, the Deputy Commissioner, Alwal Circle-27, GHMC has passed a speaking order, dated 06.09.2024, directing the petitioner to remove un-authorized construction of ACC Rooms at designated park area of Ganga Avenue Residence Welfare Association. Even then, she has not removed the said construction. It is duty of the Greater Hyderabad Municipal Corporation to protect the park and open space in terms of

G.O.Ms.No.413, Municipal Administration and Urban Development (B2) Department, dated 03.08.1992; G.O.Ms.No.229, Municipal Administration and Urban Development (M) Department, dated 16.04.1994 and G.O.Ms.No.72, Municipal Administration & Urban Development Department, dated 20.02.2002. Therefore, the building application submitted by the petitioner was rejected vide proceedings dated 20.12.2023.

5. In the aforesaid proceedings, there is no consideration of regularization proceedings, dated 01.11.2012 and also Memo No.G/A6/1445/2012, dated 30.08.2012, issued by Special Officer, Urban Land Ceiling, Urban Land Ceiling, Hyderabad. Petitioner has paid an amount of Rs.2,34,882/- towards regularization charges. But, the same was not considered.

6. Learned counsel for the petitioner, on instructions, would submit that owners of plot Nos.16/2 Part and 90/A have not obtained regularization proceedings. There is old house in the subject property. The petitioner has been paying property tax to the respondent-Municipality. Even then, at the instance of colony owners, respondent No.3 rejected the

building application bearing No.013061 /GHMC/6421 /KPL2/2023-BP, dated 20.11.2023, submitted by the petitioner.

7. Perusal of the record also would reveal that the petitioner has submitted the said application under TS-bPASS. Respondent No.3 has to consider the same and also *prima facie* title of the petitioner. Thereafter, he has power to verify the documents within twenty one (21) days. However, this Court in the case of **Smt. Lalitha Srikrish v. The State of Telangana, rep. by its Principal Secretary, MA & UD, Secretariat, Hyderabad**¹ held that the twenty one (21) days mentioned in Section 7 of the TS-bPASS Act, 2020 is directory, but it is not mandatory. Therefore, the Commissioner, GHMC has power to revoke the building permit order obtained by respondent No.4 by misrepresentation of facts beyond 21 days.

8. At the cost of repetition, there is no consideration of aforesaid regularization proceedings, dated 01.11.2012 and the Memo, dated 30.08.2012 by respondent No.3 in the impugned proceedings.

¹ W.P.No.16456 of 2021

9. In the light of the same, the impugned rejection order, dated 20.11.2023 is set aside. The matter is remanded back to respondent No.3 with a direction to consider the building application bearing No.013061 /GHMC/6421/KPL2/2023-BP, dated 20.11.2023, LRS proceedings, dated 01.11.2012 and Memo, dated 30.08.2012 of the Special Officer, Urban Land Ceiling, Hyderabad, and pass appropriate orders by putting the petitioner and Ganga Avenue Residence Welfare Association on notice and affording them an opportunity of hearing. He shall complete the said exercise within a period of four (4) weeks from the date of receipt of a copy of this order. However, liberty is granted to the petitioner to submit all the documents to respondent No.3 within one week from today.

10. Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous petitions if any, pending in this writ petition shall stand closed.

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

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Municipal Administration Department, Secretariat, Hyderabad, State of Telangana.
2. The Commissioner, Greater Hyderabad Municipal Corporation (GHMC) Tank Bund Road, Hyderabad
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation (GHMC) Kuktpally Zone, Hyderabad.
4. The Deputy Commissioner, Greater Hyderabad Municipal Corporation (GHMC) Circle -27, Alwal, Secunderabad

5. One CC to SRI K.JAWAHAR, Advocate [OPUC]
6. Two CCs to GP FOR MCPL ADMN & URBAN DEV, High Court for the State of Telangana, at Hyderabad. [OUT]
7. One CC to SRI K.RAVI MAHENDER, SC FOR GHMC [OPUC]
8. Two CD Copies

PSK.

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HIGH COURT

DATED:16/12/2024

ORDER

WP.No.35280 of 2024



ALLOWING THE WRIT PETITION
WITHOUT COSTS

(11)

kp.
31/12/24.