

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

WEDNESDAY ,THE EIGHTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION NO: 35566 OF 2024

Between:

Dubba Shankaramma, W/o. Shankar, Aged about 60 years, Occ. Housewife,
R/o.H.No.1-13/203/9, Kapuwada, Sirpur Kaghaznagar Mandal,
Kumarambheem Asifabad District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Department of Municipal Administration and Urban Development, Secretariat, Hyderabad.
2. The Kaghaznagar Municipality, Rep.by its Commissioner, Kaghaznagar, Kumarambheem Asifabad District.
3. Ellakula Vinod Kumar, S/o. Chandraiah R/o.H.No.1-13-203/10, Kapuwada, Sirpur Kaghaznagar Mandal, Kumarambheem Asifabad 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 of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to declare Speaking Order passed by the 2nd respondent in File No.MCK/GI/92/2024, dt.12.12.2024, asking me to remove the construction being made Plot No.33, Sy.No.18-A, Kothapet Village, Kaghaznagar Mandal, Kumrambheem Asifabad District, as illegal, arbitrary and unsustainable and to set aside the same and to issue a consequential direction to the 2nd respondent to act in accordance with 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 suspend the Speaking Order passed by the 2nd respondent in File No.MCKJG1/92/2024, dt.12.12.2024, pending disposal of the Writ Petition

**Counsel for the Petitioner: SRI VEDULA SRINIVAS FOR SRI. VEDULA
CHITRALEKHA**

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

Counsel for the Respondent No.2: SRI M. RAM MOHAN REDDY SC FOR MC

Counsel for the Respondent NO.3: ---

The Court made the following: ORDER

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.35566 of 2024

ORDER:

Heard Sri Vedula Srinivas, learned senior counsel representing Smt.Vedula Chitralkha, learned counsel appearing for the petitioner, learned Assistant Government Pleader for Municipal Administration and Urban Development appearing for respondent No.1 and Sri M. Ram Mohan Reddy, learned Standing Counsel appearing for respondent No.2. Perused the record.

2. In view of the nature of relief sought by the petitioner, this Writ Petition is disposed of at the admission stage dispensing with notice to respondent No.3.

3. Petitioner is claiming that she is the absolute owner and possessor of 200 Sq. yards in plot No.33 in Sy.No.18/A situated at Kaghasnagar mandal and Municipality under two (2) registered sale deeds bearing

document Nos.994 of 2007, dated 31.03.2007 and 2830 of 2008, dated 22.10.2008. She has obtained building permit order dated 04.03.2024 for construction of Ground + 2 Upper floors. According to the petitioner, she is making construction, strictly in accordance with the said building permit order. Even then, respondent No.2 has issued Show Cause Notice dated 23.09.2024 alleging that petitioner is proceeding with construction by occupying 100 feet master plan road and also in deviation to the building permit order dated 04.03.2024. Seven (7) days time was granted to the petitioner to submit explanation. She has submitted explanation on 30.09.2024 itself. Without considering the said explanation properly, respondent No.2 has passed the impugned speaking order dated 12.12.2024 directing the petitioner to remove the un-authorized construction within 7 days from the date of receipt of copy of the said speaking order. Challenging the said speaking order, petitioner filed the present writ petition.

4. Sri Vedula Srinivas, learned senior counsel appearing for the petitioner would contend that petitioner in her explanation dated 30.09.2024, specifically stated that she is proceeding with the construction strictly in accordance with the building permit order dated 04.03.2024. She never occupied the public road and never made construction in deviation to the said building permit order. Even then, the same was not considered by respondent No.2 while passing the impugned speaking order dated 12.12.2024.

5. Whereas, Sri M. Ram Mohan Reddy, learned Standing Counsel appearing for respondent No.2, on instructions, would submit that respondent No.2 has issued Show Cause Notice calling for explanation from the petitioner and then passed the speaking order dated 12.12.2024 directing the petitioner to remove the unauthorized constructions. There is no irregularity in it.

6. The aforesaid rival contentions of the parties are on the factual aspects. According to the petitioner, she is making construction, strictly in accordance with the building permit order dated 04.03.2024. But, according to respondent No.2, petitioner is making construction by occupying the public road and also in deviation to the building permit order dated 04.03.2024. The said aspects are factual aspects, which this Court cannot consider. Therefore, petitioner has to prefer an appeal against the speaking order dated 12.12.2024 in terms of Section 252 (1) of the Telangana Municipalities Act, 2019 with the Regional Director. He will consider the said aspects and pass orders, in accordance with law.

7. In the light of the aforesaid discussion, this Writ Petition is disposed of granting liberty to the petitioner to prefer an appeal against the speaking order dated 12.12.2024 in terms of Section 252 (1) of the Telangana Municipalities Act, 2019 with the Regional Director, within one week from today. On filing of such appeal, the

Regional Director shall dispose it of within 30 days in terms of Section 252 (1) of the Telangana Municipalities Act, 2019 from the date of receipt of the said appeal. Till then, respondent No.2 is directed not to proceed further pursuant to the speaking order dated 12.12.2024. However, petitioner shall proceed with the construction, strictly in accordance with the building permit order dated 04.03.2024, failing which liberty is granted to respondent No.2 to take action against the petitioner, strictly in accordance with law. There shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

SD/-T. TIRUMALA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

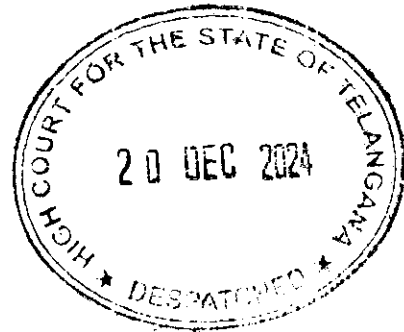
To,

1. The Principal Secretary, Department of Municipal Administration and Urban Development, Secretariat, Hyderabad.
2. The Commissioner, Kaghaznagar Municipality, Kaghaznagar, Kumarambheem Asifabad District.
3. One CC to SRI M. RAM MOHAN REDDY SC FOR MC [OPUC]
4. One CC to SRI. VEDULA CHITRALEKHA Advocate [OPUC]
5. Two CCs to GP FOR MCPL ADMN URBAN DEV ,High Court for the State of Telangana. [OUT]
6. Two CD Copies

CC TODAY

HIGH COURT

DATED:18/12/2024



ORDER

WP.No.35566 of 2024

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

g/cp/18

Pm
20/12/24