

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

FRIDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION NO: 36514 OF 2024

Between:

Miss. Mithu Mishra, D/o. Late Sri Durga Charan Misra, Aged about 38 years, Occ Pvt Service, R/ o. Flat No. 407, 4th Floor, Ananda Homes Urbansdale Apartments, Road No.16, Alkapur Town Ship, Manikonda, Ranga Reddy District.

.....PETITIONER

AND

1. The State of Telangana, rep by its Principal Secretary, Municipal Administration and Urban Development Department Secretariat Buildings Hyderabad 500 022.
2. Hyderabad Metropolitan Development Authority (HMDA), Rep. by its Commissioner, Swarna Jayanti Complex, Sanjeeva Reddy Nagar, Srinivasa Nagar, Ameerpet, Hyderabad - 500038, Telangana.
3. Manikonda Municipality, Rep. by its Municipal Commissioner, Manikonda, Ranga Reddy District 500 029.
4. The Town Planning Officer, Manikonda Municipality, Manikonda, Ranga Reddy District 500 029.
5. M/s Iri Infra and Developers, Rep by its Managing Partner, Savithri Girish Babu S/o Savithri Venkateswara Rao, Aged about 37 Years, Occ Business, Office at Flat No 401 Sky Heights Road No 14, Alkapur Township Puppalguda, R.R District 500 089.

.....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 an order or direction or a writ more particularly one in the nature of Writ of mandamus declaring the inaction of the Respondent No. 2 to 4 in not demolishing the illegal construction though found the Constructions to be illegal, being carried out by the 5th Respondent on the Plot adjacent to Andand Homes

Urbansdale Apartments situated at Road No. 16 in Sy. Nos. 236/1 and 237, Alkapur Township, Puppalaguda Village, Manikonda Municipality, Ranga Reddy District inspite of the several objections by the Petitioner dated. 17.08.2024, 11.12.2024, 20.12.2024 as highly illegal, arbitrary, capricious and contrary to law of Articles 14, 21 and 300-A of the Constitution of India and opposed to principles of natural justice and consequently to dire the Respondents 2 to 4 to demolish the illegal constructions.

I.A.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 Respondent No. 2 to 4 to forthwith stop the illegal construction being carried out by 5th Respondent on the Plot situated at Sy. Nos. 236/1 and 237, Alkapur Township, Puppalaguda Village, Manikonda Municipality, Ranga Reddy District.

Counsel for the Petitioner : SRI SUBRAHMANYAM KURELLA

Counsel for the Respondent No.1 : GP FOR MCPL ADMN AND URBAN DEVELOPMENT

Counsel for the Respondent No.2 : SRI V.NARSIMHA GOUD

Counsel for the Respondent Nos.3 & 4 : SRI LAXMAIAH KANCHANI

Counsel for the Respondent No.5 : --

The Court made the following ORDER

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.36514 OF 2024

ORAL ORDER:

Heard Sri Subrahmanyam Kurella, learned counsel for the petitioner, learned Assistant Government Pleader for Municipal Administration and Urban Development for respondent No.1, Sri V. Narsimha Goud, learned standing counsel appearing for respondent No.2 and Sri Laxmaiah Kanchani, learned standing counsel appearing for respondent Nos.3 and 4. Perused the record.

2. Petitioner is resident of Flat No.407, 4th Floor, Ananda Homes Urbansdale Apartments, Road No.16, Alkapur Township, Manikonda. Respondent No.5 obtained Building permit order dated 23.09.2024 for construction of Stilt + 5 Upper floors. Respondent No.5 is proceeding with construction in deviation to the said Building permit order. Therefore, petitioner's brother and

Welfare Association of the said Apartment submitted representations dated 17.08.2024, 11.12.2024 and 20.12.2024 to respondent Nos.3 and 4 with a request to take action against respondent No.5. Despite receiving and acknowledging the said representations, respondent Nos.3 and 4 did not act upon the same. Aggrieved by the said inaction of respondent Nos.3 and 4, petitioner filed the present writ petition.

3. Whereas, Sri Laxmaiah Kanchani, learned standing counsel appearing for respondent Nos.3 and 4 on instructions would submit that the petitioner herein did not submit representations to respondent Nos.3 and 4. However, respondent Nos.3 and 4 conducted personal inspection of the subject property and found that respondent No.5 is proceeding with construction in deviation to the Building permit order dated 23.09.2024. Therefore, respondent No.3 has issued show cause notice dated 12.11.2024 to respondent No.5 granting seven (7)

days time to submit explanation. Respondent No.5 did not submit explanation within seven (7) days. Therefore, respondent No.3 has passed a speaking order dated 19.11.2024 directing respondent No.5 to remove the unauthorized construction.

4. Challenging the said speaking order dated 19.11.2024, respondent No.5 has filed a writ petition vide W.P.No.35661 of 2024 alleging that respondent No.3 has passed the aforesaid speaking order dated 19.11.2024 without calling for explanation from respondent No.5 and same is in violation of principles of natural justice and also procedure laid down under Telangana Municipalities Act, 2019. This Court vide order dated 18.12.2024 disposed of the said writ petition granting liberty to respondent No.5 to submit explanation to the show cause notice dated 12.11.2024 and directed respondent No.3 to consider the said explanation and pass appropriate orders strictly in accordance with law by putting the

petitioner and respondent No.5 on notice and affording them an opportunity. Therefore, respondent No.3 will follow the said directions strictly in accordance with law.

5. In the light of the said submission, this writ petition is disposed of directing respondent No.3 to comply with the directions of this Court dated 18.12.2024 in W.P.No.35661 of 2024. In the circumstances of the case, there shall be no order as to costs.

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

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

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Municipal Administration and Urban Development Department Secretariat Buildings State of Telangana at Hyderabad 500 022.
2. The Commissioner, Hyderabad Metropolitan Development Authority (HMDA), Swarna Jayanti Complex, Sanjeeva Reddy Nagar, Srinivasa Nagar, Ameerpet, Hyderabad - 500038, Telangana
3. The Municipal Commissioner, Manikonda Municipality, Manikonda, Ranga Reddy District 500 029.
4. The Town Planning Officer, Manikonda Municipality, Manikonda, Ranga Reddy District 500 029.
5. The Managing Partner, M/s Iri Infra and Developers, Savithri Girish Babu S/o Savithri Venkateswara Rao, Aged about 37 Years, Occ Business, Office at Flat No 401 Sky Heights Road No 14, Alkapur Township Puppalguda, R.R District 500 089.
6. Two CCs to GP FOR MCPL ADMN AND URBAN DEVELOPMENT, High Court for the State of Telangana at Hyderabad. [OUT]
7. One CC to SRI LAXMAIAH KANCHANI, Advocate (OPUC)
8. One CC to SRI V.NARSIMHA GOUD, Advocate (OPUC)
9. One CC to SRI SUBRAHMANYAM KURELLA, Advocate [OPUC]
10. Two CD Copies



HIGH COURT

DATED:27/12/2024

ORDER

WP.No.36514 of 2024



DISPOSING OF THE W.P
WITHOUT COSTS.

(13)

lcp
3/1/25

HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.35661 of 2024

ORDER:

Heard Sri M. Durga Prasad, learned counsel for the petitioner and Sri K. Laxmaiah, learned Standing Counsel for respondent Nos.2 and 3. Perused the record.

2. Petitioner is claiming that he is absolute owner and possessor of 600 square yards of land on the strength of two different registered sale deeds bearing document Nos.10611 of 2024 dated 10.07.2024 and 7015 of 2024 dated 25.05.2024. Petitioner has obtained building permit order dated 23.09.2024 for construction of residential building stilt + 5 upper floors strictly in accordance with the building permit order dated 23.09.2024. 2nd respondent has issued show cause notice dated 12.11.2024 stating that petitioner is making construction without maintaining mandatory setbacks. Seven days time was granted to the petitioner to submit explanation.

3. According to learned counsel for the petitioner, 2nd respondent did not serve the said show cause notice dated 12.11.2024 on the petitioner. Therefore, without serving show cause notice and without calling for explanation from the

petitioner, 2nd respondent has passed speaking order dated 19.11.2024 directing the petitioner to remove the unauthorized construction within 15 days from the date of receipt of copy of the said order.

4. In the light of the said submission, this Court directed Sri K. Laxmaiah, learned standing counsel for respondent Nos.2 and 3 to get specific instructions with regard to service of show cause notice to the petitioner. On instructions, he would submit that the said show cause notice was served on one Venkatesh, employee of the petitioner firm. However, learned counsel for the petitioner disputes the same and according to him, the said Venkatesh is nothing to do with petitioner firm. In the light of the same, impugned speaking order is in violation of the principles of natural justice, also procedure laid down under the Telangana Municipalities Act, 2019. The same is liable to be set-aside and accordingly set-aside.

5. Copy of the said show cause notice dated 12.11.2024 is served on the learned counsel for the petitioner in the open Court who seeks time to submit explanation to the same.

6. In the light of the said submission, this writ petition is disposed of setting aside the speaking order dated 19.11.2024,

granting liberty to the petitioner to submit explanation to the show cause notice dated 12.11.2024 within one week from the date of receipt of copy of this order and on receipt of the said explanation, 2nd respondent shall consider the same and pass appropriate orders and also take action if any, strictly in accordance with law more particularly the procedure laid down under the Telangana Municipalities Act, 2019 by putting petitioner on notice and affording him an opportunity of hearing. He shall complete the said exercise within (04) weeks from the date of receipt of such explanation from the petitioner. Till then respondent Nos.2 and 3 are directed not to interfere with the construction activity being carried out by the petitioner in accordance with the building permit order dated 23.09.2024. However, petitioner shall proceed with the construction strictly in accordance with the building permit order dated 23.09.2024 failing which liberty is granted to respondent Nos.2 and 3 to take action against the petitioner. If the petitioner fails to submit explanation within (07) days as directed above, liberty is granted to respondent Nos.2 and 3 to take action against the petitioner. With the aforesaid directions, this writ petition is disposed of.

07. Accordingly writ petition is disposed of. There shall be no order as to costs.

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

December 18, 2024
VRKS

K. LAKSHMAN, J