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

FRIDAY, THE NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HON'BLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 21917 OF 2010

Between:

Srigopal Inani, S/o. Bansilal Inani, aged about 67 years, R/o. 15-9-56, Maharaj Gunj, Hyderabad - 500 012

...PETITIONER

AND

1. The District Collector, Hyderabad District, Nampally Station Road, Hyderabad - 500 001
2. The Joint Collector, Hyderabad District, Nampally Station Road, Hyderabad – 500 001.
3. The Mandal Revenue Officer, Ameerpet Mandal, Ameerpet, Hyderabad.

...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 in the nature of writ of Mandamus declaring the declaring the proceedings dated 14.07.2010 in proceedings No. E1/N2/461/09, issued by the 2nd respondent as being illegal, arbitrary and unjust and consequently direct the respondent No.2 to issue no objection certificate to the petitioner for his land adm. 4546.77 sq. mts situated at Survey No. 122 (Old) corresponding to new survey No. 122/P, correlating to town survey No. 2/P, Ward No. 3, Block No. D of Bahlookhanguda Village, Ameerpet Mandal, Ameerpet, Hyderabad.

I.A. NO: 1 OF 2010(WPMP. NO: 27879 OF 2010)

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 issue interim directions to the respondent No.2 to forthwith issue no objection certificate pursuant to petitioner application dated 28.01.2009 in respect of his land adm. 4546.77 sq. mts situated at Survey No. 122 (old) corresponding to new survey No. 122/P, Correlating to town survey No. 2/P, Ward No.3, Block No.D of Bahloolkhanguda Village, Ameerpet Mandal, Ameerpet, Hyderabad.

I.A. NO: 2 OF 2010(WPMP. NO: 27880 OF 2010)

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 operation of proceedings dated 14-07-2010 in proceedings No. E1/N2/461/09, issued by the 2nd respondent in respect of petitioner's land adm. 4546.77 sq. mts situated at Survey No. 122 (old) corresponding to new survey No. 122/P, Correlating to town survey No. 2/P, Ward No.3, Block No.D of Bahloolkhanguda Village, Ameerpet Mandal, Ameerpet, Hyderabad.

Counsel for the Petitioner: SRI VIVEK JAIN

Counsel for the Respondents: SRI G. UDAYA BHASKAR, GP FOR REVENUE

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.21917 OF 2010

DATE: 09.01.2026

BETWEEN:

Srigopal Inani.

....Petitioner

AND

The District Collector, Hyderabad and two others.

....Respondents

ORDER

Heard Sri Vivek Jain, learned counsel for the petitioner; Sri G.Udaya Bhaskar, learned Government Pleader for Revenue and perused the record.

2. The present writ petition is filed under Article 226 of the Constitution of India, with the following prayer viz.,

> *".....may be pleased to issue writ, order or direction, more particularly in the nature of writ of mandamus declaring the proceedings dated 14-07-2010 in proceedings no. E1/N2/461/09, issued by the 2nd respondent as being illegal, arbitrary and unjust and consequently direct the respondent no. 2 to issue no objection certificate to the petitioner for his land adm. 4546.77 sq.mts situated at Survey No. 122 (Old) corresponding to new Survey No. 122/P, correlating to town survey No. 2/P, Ward No. 3, Block No. D of Bahloolkhanguda Village, Ameerpet Mandal, Ameerpet, Hyderabad, Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and Circumstances of the case.*

3. This writ petition is filed challenging the order dated 14.07.2010 issued by respondent No.2, which rejected his application for a No-Objection Certificate (NOC) for the land admeasuring 4546.77 sq.mts. situated in Sy.No.122 (Old), now Sy.No.122/P, correlating to T.S.No.2/P of Bahloolkhanguda Village, Ameerpet Mandal, Hyderabad, despite the petitioner's established title, earlier binding orders and admitted Government records.

Brief facts and chronology of litigations

4. The petitioner challenges the action of the respondent authorities in proposing to handover the newly constructed VAMBAY tenements, raised over 1750 sq. yds. of the petitioner's land, to encroachers without restoring the balance extent of 4546.77 sq. mts. to him and without issuing the required NOC in respect of Sy.No.122 (Old), now Sy.No.122/P, correlating to T.S.No.2/P of Bahloolkhanguda Village, Ameerpet Mandal, Hyderabad.

5. The petitioner along with his family members purchased land admeasuring Ac.10-02 gts. situated in Bahlookhanguda Village, Ameerpet Mandal, Hyderabad, through a registered sale deed bearing document No.2219 of 1966 dated 13.09.1966, after securing permission under the

A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short 'Tenancy Act, 1950'). The said Village later came within the Urban Agglomeration Limits and the petitioner applied for exemption under the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'ULC Act, 1976'). The Government, after due consideration, granted exemption to an extent of Ac.9-28 gts. under Section 20(1)(a) of the ULC Act, 1976 *vide* G.O.Ms.No.152 dated 04.02.1982. These developments led to a series of litigations, which are set out in chronological order hereunder:

i. 1st Round of litigation: The State sought to acquire the land for providing house sites to weaker sections. The petitioner's family members challenged the Section 4(1) Notification dated 21-01-1982 by filing W.P.No.1330 of 1982. By order dated 04-08-1982, the said notification was quashed. The Government preferred W.A.No.918 of 1982; however, the appeal was dismissed, thereby affirming the order of the learned Single Judge.

ii. 2nd Round of litigation: The Joint Collector initiated *suo motu* proceedings cancelling the patta granted in favour of the petitioner. Aggrieved thereby, the petitioner filed W.P.No.10085 of 1983. The writ petition was allowed on 18-03-1986, setting aside the patta cancellation. The Government carried the matter in W.A.No.1020 of 1986, but the appeal was dismissed, reaffirming the petitioner's title and possession.

iii. 3rd Round of litigation: The Government issued G.O.Ms.No.14 dated 09-01-1991 cancelling the exemption earlier granted under Section 20(1)(a) of the ULC Act 1976. The petitioner challenged the said G.O. in W.P.No.1732 of 1991, and the writ petition was allowed on 07-08-1995, wherein, the cancellation was set aside. The Government again preferred W.A.No.1556 of 1995, which was also dismissed, thereby fully restoring the exemption and confirming the petitioner's rights.

iv. 4th Round of litigation: Certain private individuals encroached upon the petitioner's land and instituted O.S.No.425 of 1991 before the I Additional Judge, City Civil Court, Hyderabad, obtaining *ex parte* interim injunction in I.A.No.791 of 1991. The petitioner contested the matter, and by order dated 21-08-1991, the injunction petition was dismissed. Subsequently, the encroachers preferred CMA.No.44 of 1991 before the Additional Chief Judge, Secunderabad, which too was dismissed on 21-10-1991.

v. 5th Round of litigation: The petitioner filed LGC.No.2 of 1991, impleading the District Collector as respondent No.49. After detailed consideration, the LGC was allowed by order dated 15-02-1993. Pursuant thereto, the petitioner was put into actual and physical possession of the land under a panchanama dated 07-11-1993. The land grabbers questioned the said order in W.P.No.6150 of 1993 and obtained interim protection; however, upon the petitioner's vacate application, the interim orders were vacated.

Accordingly, W.P.No.6150 of 1993 was dismissed on 16-11-2001, affirming the petitioner's possession and title.

vi. 6th Round of litigation: The petitioner challenged the fresh acquisition proceedings dated 21-05-1996 in W.P.No.13886 of 1996, which was closed on 16-10-2000 on the basis of the Government's assurance to pay compensation and pass an award within six months; however, no enquiry was held, no award was passed, and the proceedings lapsed. Meanwhile, the petitioner was denied police protection against re-encroachment, leading to further encroachments.

Pursuant to private negotiations, the petitioner relinquished 1500 sq. yds through a consent letter dated 11-03-2003, and the Collector took possession under a panchanama dated 14-10-2003. Petitioner later relinquished an additional 250 sq. yds under the VAMBAY scheme on 23-07-2004, and the local MLA requested restoration of the balance land on 28-07-2004. Despite constructing houses on the surrendered land, the authorities neither shifted the encroachers nor restored the remaining 4546.77 sq.mts to the petitioner.

vii. 7th Round of litigation: The encroachers filed O.S.No.4581 of 2007 before the V Junior Civil Judge, Hyderabad, and secured an *ex parte* injunction in I.A.No.1184 of 2007. The petitioner contested, and respondent No.3, in its counter, admitted the petitioner's ownership, the LGC order and possession

delivered on 07-11-1993, the proposed acquisition, disposal of W.P.No.13886 of 1996, lapse of proceedings, and the petitioner's relinquishment under the VAMBAY scheme. The interim injunction was vacated on 27-08-2007, and the suit was later dismissed as not pressed on 06-05-2013.

6. The rejection of the request for issuance of a NOC dated 14.07.2010 forms the subject matter of W.P.No.21917 of 2010. Parallelly, steps were initiated by the official respondents to handover the constructed tenements, raised on the land relinquished under the VAMBAY scheme, to encroachers without restoring the balance extent or issuing the NOC, which action is under challenge in W.P.No.21919 of 2010.

Contentions on behalf of the petitioner

7. Learned counsel for the petitioner contends that his brothers purchased Ac.10.02 gts. of land in Bahloolkhanguda under a registered sale deed dated 13.09.1966 after securing necessary permission under the Tenancy Act, 1950, and his name was duly mutated in revenue records. A minor portion, Ac.0.14 gts, was acquired for a road in 1968. The land later came under the Urban Land Ceiling regime, but the Government granted exemption for Ac.9.28 gts. under Section 20(1)(a) of the ULC Act *vide* G.O.Ms.No.152, dated 04.02.1982.

8. The petitioner submits that the respondents and private individuals repeatedly interfered with his rights, resulting in prolonged litigation. The attempted acquisition under Gazette Notification dated 21.01.1982 was quashed by this Court in W.P.No.1330 of 1982 and the order was affirmed in W.A.No.918 of 1982. The *suo motu* cancellation of patta by the Joint Collector was also set aside in W.P.No.10085 of 1983, which was affirmed in W.A.No.1020 of 1986. Likewise, cancellation of exemption under the ULC Act, 1976 through G.O.Ms.No.14, dated 09.01.1991 was set aside in W.P.No.1732 of 1991, affirmed in W.A.No.1556 of 1995.

9. The petitioner further contends that the private individuals unlawfully occupied parts of the land through interim orders in O.S.No.425 of 1991, which upon contest were vacated. Thereafter, the petitioner succeeded in LGC No.2 of 1992 before the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982, which by order, dated 15.02.1993 directed eviction of the encroachers. Consequent upon dismissal of W.P.No.6150 of 1993, possession was delivered to the petitioner on 07.11.1993.

10. The petitioner contends that despite regaining possession, the respondents neither protected the land nor acted on his complaints of renewed encroachments. Instead, the

authorities issued proceedings dated 21.05.1996 seeking to acquire 6010 sq. mts. of the land. In W.P.No.13886 of 1996, the State represented before this Court that compensation would be paid and an award passed, leading to disposal of the Writ Petition on 16.10.2000. However, no award was passed, no compensation was paid and the acquisition proceedings lapsed.

11. The learned counsel for the petitioner submits that adjoining land of 33,998 sq. mts. was also sought to be acquired through separate notifications, compensation for which was awarded under proceedings dated 31.07.2001. Certain disputes arising therefrom were resolved by the civil Courts, while reference under Section 18 of the Land Acquisition Act, 1894 is still pending.

12. The petitioner contends that since the authorities could not complete acquisition and were unable to remove encroachers, they initiated private negotiations to settle the matter. The respondents persuaded the petitioner to surrender 1500 sq.yds. out of 6010 sq.mts. for providing housing to weaker sections, assuring that the balance land would be immediately handed back with an NOC. Possession of the said 1500 sq.yds. was taken under a panchnama dated 14.10.2003. On the intervention of the local MLA, an additional 250 sq.yds.

was also surrendered subject to agreed conditions. Thereafter, construction of VAMBAY tenements was completed.

13. The petitioner contends that despite completion of the buildings, the respondents are delaying the shifting of encroachers into the newly constructed units and are attempting to allot the tenements without returning the balance extent of 4546.77 sq. mts. or issuing the promised NOC. The rejection of his NOC application, dated 14.07.2010, on grounds that the land is Government land or surplus land, is stated to be arbitrary, contrary to the record and reflective of *mala fides.*

14. The petitioner asserts that even in O.S.No.4581 of 2007 filed by the encroachers, respondent Nos.1 and 3 unequivocally admitted in their counters that the land admeasuring 6010 sq. mts. belongs to the petitioner and that possession was delivered to him in compliance with orders in LGC No.2 of 1992. Such admissions, according to the petitioner, render the Government's later stand wholly unsustainable.

15. The petitioner submits that unless restrained by this Court, the respondents' attempt to handover the newly constructed tenements to encroachers, without honouring their commitments and without restoring the balance land, will seriously prejudice his rights. The petitioner with no other efficacious remedy available has invoked the extraordinary

jurisdiction of this Court under Article 226 of the Constitution of India.

Contentions on behalf the respondents

16. The learned Government Pleader submits that the subject land is Government property having been consistently recorded in the Town Survey Land Register as a G-Tank (Government tank-bed) and correlated to old Sy.No.61 and new Sy.No.122 of Bahloolkhanguda Village, and that the classification of the land as *Shyamalakunta Shikam Patta* in the revenue records demonstrates its character as a water body, incapable of conferring proprietary rights on any private individual, as *shikam* lands are merely seasonal cultivation permissions and not alienable patta lands. It is therefore contended that the alleged patta or sale transaction relied upon by the petitioner is irregular, void and incapable of conferring title.

17. The respondents contend that such improper entries were already cancelled by the Joint Collector in 1983, treating the land as tank-bed land and that the petitioner's claim is an attempt to take advantage of ambiguous historic entries while ignoring the consistent character of the land as a water body.

18. The respondents further contend that the petitioner's claim is clouded by pending litigation, particularly, O.S.No.4581

of 2007, wherein hut dwellers have laid claim and secured interim orders. Though the injunction was subsequently vacated, the very pendency of the civil suit demonstrates that title is disputed, and in the face of such subsisting civil proceedings, the request for issuance of an NOC cannot be entertained, as the State cannot certify a private claim when adjudication over competing claims is still pending before a Civil Court.

19. The respondents also contend that the subject land forms part of surplus land declared under the ULC Act, 1976, pursuant to the petitioner's own declaration in which he included even the tank-bed area in Sy.No.122 as if it were his private land; that the exemption earlier granted under Section 20(1)(a) of the ULC Act, 1976 was cancelled for violation of conditions, and notwithstanding the repeal of the Act, the earlier classification and the Government's claim over the tank-bed land survive, particularly because the land is recorded as Government land in the Town Survey Register, which has attained finality under Sections 13 and 14 of the A.P. Survey and Boundaries Act, 1923.

20. The respondents further contend that the decision to issue or refuse a NOC is an administrative function falling within the discretionary domain of the competent authorities

constituted under G.O.Ms.No.2111 and G.O.Ms.No.93. It is submitted that the NOC Committee considered the petitioner's application and rejected it by an endorsement dated 14.07.2010. The respondents, therefore, submit that the Court, in exercise of judicial review, cannot interfere with a discretionary administrative decision taken *bona fide* and supported by material on record.

21. The respondents contend that in view of binding judicial precedents emphasising obligation of the State and all authorities, including Courts, to protect water bodies, tanks and natural resources, no private rights can be recognised contrary to the environmental and public-trust obligations of the State. Reliance is placed on the directions issued in W.P.No.7043 of 2011 mandating protection and restoration of tanks and prohibiting recognition of encroachments upon such lands.

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

23. In view of the material placed before this Court and the settled legal position governing the dispute, the impugned order cannot be sustained for the following reasons:

I. <u>Finality of Judicial determinations and binding effect of the LGC Judgment</u>

On perusal of the record, it discloses that the petitioner's title and possession over the land in Sy.No.122 has been consistently upheld in earlier rounds of litigation. The cancellation of patta by the Joint Collector was set aside in W.P.No.10085 of 1983 and upon appeal the W.A.No.1020 of 1986 was dismissed, confirming the petitioner's rights. Similarly, the cancellation of the ULC exemption was set aside in W.P. No.1732 of 1991 and upon appeal W.A.No.1556 of 1995 was also dismissed.

Significantly, in L.G.C. No.2 of 1992, the Special Court, upon full-fledged trial, decreed the petitioner's title and ordered eviction of encroachers. The State, being referred to as respondent No.49 in those proceedings, has allowed the decree to attain finality. The petitioner was formally inducted into possession on 07.11.1993 under a panchanama and a Form-VII Certificate issued by the competent authority. The dismissal of W.P.No.6150 of 1993 removed the cloud over the decree.

In view of these judicial pronouncements, the State cannot at this stage plead that the land as Government land or Tank-Bed. Any such plea amounts to a collateral challenge to final judgments, which is impermissible and contrary to the rule of finality.

II. The Ground of 'Surplus Land' is erroneous and contrary to the ULC Act, 1976 (Repeal Act)

It is pertinent to note that the respondents' reliance on the ULC proceedings is misplaced. The exemption granted under G.O.Ms.No.152 was restored by virtue of the Judgment in W.P.No.1732 of 1991, and this position is borne out by the material papers. After the repeal of the ULC Act, 1976, by the State Repeal Act, no vesting or surplus declaration survives in law, unless possession was already taken. Further, the record discloses that no such possession was ever taken, on the contrary, the petitioner continued to be in possession and the State itself time and again treated the subject land as private land while negotiating for relinquishment. Thus, invocation of 'surplus land' is legally untenable.

III. Pendency of O.S.No.4581 of 2007 creates no legal embargo

It is to be noted that the respondents cannot place reliance on the pendency of O.S.No.4581 of 2007 filed by hut dwellers, as the Injunction Application *vide* I.A.No.1184 of 2007 was dismissed after thorough consideration. Moreover, the counters filed by respondent Nos.1 and 3 in that very suit unequivocally admit as hereunder:

i. that the petitioner is the owner of the land admeasuring 6010 sq.mts,

ii. that the petitioner was placed in possession pursuant to the LGC decree of 1993,
iii. that 1750 sq. yds. were taken from the petitioner for VAMBAY housing,
iv. and that the remaining land belonged to the petitioner.

When the State itself has admitted the petitioner's title, the subsequent pendency of the suit cannot be cited as a ground to deny an NOC to the petitioner. Thus, a suit filed by encroachers cannot derogate from judicial decrees or the State's own admissions.

IV. Legitimate expectation arising from Governmental assurances

On perusal of the record, it reflects that the respondents particularly, respondent Nos.1 and 3 entered into negotiations with the petitioner and obtained voluntary relinquishment of 1500 sq.yds., followed by an additional 250 sq.yds., for the purpose of constructing houses under the VAMBAY scheme. The panchanama dated 14.10.2003 and the related correspondence establish the fact that the said relinquishment was premised on the solemn assurance that the remaining land would be restored to the petitioner along with an NOC.

The State having induced the petitioner to alter his position and part with valuable land for a public scheme, is now bound by the doctrine of legitimate expectation and promissory

estoppel. The respondents cannot approbate and reprobate by taking the benefit of the said relinquishment while withholding the return of the balance land.

V. The impugned order suffers from non-application of mind and arbitrariness

The endorsement dated 14.07.2010 rejecting the petitioner's application for NOC states that the land is 'Government land' and 'surplus land', without considering the following:

i. the binding Judgments of this Court and the Special Court,
ii. the State's own admissions in prior proceedings and counters,
iii. the panchanamas evidencing delivery of possession,
iv. the relinquishment undertaken for the public scheme, and
v. the requirement of fair dealing in administrative action.

A decision that ignores relevant material, relies on grounds already rejected by competent Courts and seeks to unsettled rights, is arbitrary and violative of Article 14 of the Constitution, and the conduct of the respondents in repeatedly shifting stands, failing to honour their commitments, and perpetuating uncertainty over a matter concluded decades

earlier, display a lack of *bona fides* and non-application of mind.

24. Therefore, considering the statutory consequences of the ULC Repeal Act, the admissions of the respondents, and the equities arising from the relinquishment and negotiations, this Court holds that the impugned order cannot be sustained. The denial of NOC is arbitrary, contrary to binding decrees, and violative of the petitioner's rights.

Conclusion

25. For the foregoing reasons, this Court holds that the impugned order dated 14.07.2010, issued by respondent No.2, is hereby quashed and set aside.

26. Accordingly, the present Writ Petition is allowed. No order as to costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

That the Rule Nisi has been made absolute as stated above.
Witness the HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH, on this Friday, the Ninth Day of January, Two Thousand and Twenty Six.

SD/- S. MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

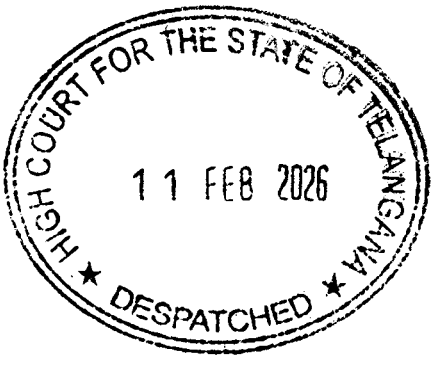
To

1. The District Collector, Hyderabad District, Nampally Station Road, Hyderabad - 500 001
2. The Joint Collector, Hyderabad District, Nampally Station Road, Hyderabad – 500 001.
3. The Mandal Revenue Officer, Ameerpet Mandal, Ameerpet, Hyderabad.
4. One CC to SRI VIVEK JAIN, Advocate [OPUC]
5. Two CCs to GP for Revenue, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies

MP
GJP

HIGH COURT

DATED:09/01/2026



ORDER

WP.No.21917 of 2010

ALLOWING THE WRIT PETITION WITHOUT COSTS

(9)

kpo
11/2/26