

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

TUESDAY, THE FOURTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 31393 OF 2023

Between:

M. Yashoda Bai, W/o. B. Adi Reddy. Aged 65 years, Occ. Retd. Govt. Employee,
R/o. Villa No. 38, Gardenia Florences, St. No. 2, Near Narsingi, Mancheruvula
Village, R.R.Dist.

...PETITIONER

AND

1. The State of Telangana, Rep. by Principal Secretary (MAUDA), B.R. Ambedkar T.S. Secretariat, Hyderabad.
 2. The Greater Hyderabad Municipal Corporation, Rep. by its Commissioner, Tank Bund, Hyderabad.
 3. The Dy. Commissioner, GHMC, Serilingampally, Ranga Reddy Dist.
 4. The District Collector, Ranga Reddy District At Kongara Kalan Village Ibrahimpatnam, Kongara Kalan, Telangana.
 5. The Joint Collector, Ranga Reddy District At Kongara Kalan Village, Ibrahimpatnam, Kongara Kalan, Telangana
 6. The Tahasildar, Serilingampally, Ranga Reddy District.
- (R-1 is not necessary party in I.A Nos. 1 and 2 of 2023)

...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, Order or Direction, more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the Respondent Nos. 2 and 3 in issuing Lr.No.332330/GHMC/17743/2023, dt.06-11-2023 (Revocation of Building Permission) and also directing the Petitioner herein to produce the No Objection Certificate from the Revenue Department by making it as one of the shortfall vide Lr.No.332330/GHMC/17743/2023, dt.06-11-2023 as highly illegal, arbitrary,

against the provisions of Telangana Municipalities Act, 2019 and violative of Article 14, 19, 20 and 300-A of the Constitution of India and also reported judgments of this Hon'ble Court passed in WP No. 16868/2022, Dt. 26.04.2022, W.P.No.20717/2022, Dt. 22.04.2022 and order passed in W.P.No.25727/2000, Dt. 25.04.2001 and consequently set aside the Revocation Letter No.332330/GHMC/17743/2023, dt. 06-11-2023 and further direct the Respondents herein to re-consider the application of the Petitioner for Building Permission in Sy.No. 66/3 situated at Raidurg Panmaktha Village, Serilingampally Mandal, Ranga Reddy District without insisting for "No Objection Certificate" from the Revenue Department forthwith.

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 suspend the Revocation Letter No.332330/GHMC/17743/2023, dated. 06-11-2023 and in the interest of justice.

IA NO: 2 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 direct the Respondent No.2 to re-consider the Petitioners Application No. 332330/GHMC/17743/2023 (Permit No.332330/10071/GHMC/2023, dated.16-10-2023 without insisting for "No Objection Certificate" from the Revenue Department for sanction of Building Permission and in the interest of justice.

Counsel for the Petitioner: SRI GURRAM RAGHU

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

Counsel for the Respondent Nos. 2 and 3: SRI M.A.K. MUKHEED, SC FOR GHMC

Counsel for the Respondent Nos. 4 to 6: GP FOR REVENUE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.31393 of 2023

ORDER:

This Writ Petition is filed for issuance of *Writ of Mandamus* declaring the action of the 2nd respondent in issuing Lr.No.332330/GHMC/17743/2023, dt.06.11.2023, revoking the building permission granted to the petitioner and directing the petitioner to produce 'No Objection Certificate'(NOC) from the Revenue Department, as highly illegal, arbitrary, against the provisions of Telangana Municipalities Act, 2019 (for short 'the Act') and violative of Articles 14, 19, 21 & 300A of the Constitution of India, and also contrary to the decisions of this Court in W.P.No.16868/2022, dt.26.04.2022, W.P.No.20717/2022, dt.22.04.2022, W.P.No.25727/2000, dt.25.04.2001, and consequently set aside the said revocation letter and direct the respondents to re-consider the petitioner's application for building permission in Sy.No.66/3 situated at Raidurg Panmaktha Village, Serilingampally Mandal, Ranga Reddy District without insisting for NOC from the Revenue Department.

2. Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development Department appearing on behalf of respondent No.1 and Sri M.A.K.Mukheed, learned Standing Counsel appearing on behalf of

respondents No.2 & 3, learned Government Pleader for Revenue appearing for respondents No.4 to 6, and with their consent the Writ Petition is taken up for hearing and disposal at the stage of admission.

3. Petitioner contends that she is the absolute owner and possessor of the property bearing Plot No.9 in survey No.66/3 admeasuring 349 sq. yards of 291.76 sq. mtrs, situated at Street/Road: Old Bombay Road, Khajaguda Junction to ORR Nanakramguda, Locality: Raidurga Pan Maqtha, of Raidurg Panmaktha Village, Serilingampally Circle 20, Serilingampally Zone and Mandal, GHMC, Ranga Reddy District, having purchased the same under a registered Sale Deed bearing document No.6435/1998, dt.21.08.1998.

4. Petitioner further contends that he had obtained regularization in respect of the aforesaid plot under the Layout Regularization Scheme introduced by the State Government; that after obtaining necessary clearances from the concerned authorities, she had approached the respondents-authorities and obtained building permission through TS-bPASS online process on 16.10.2023; that the petitioner also executed Mortgage Deed in favour of the respondents-authorities on 04.10.2023 before the Sub-Registrar-1, Ranga Reddy District; and that while the petitioner was waiting for the authorities to issue Work Commencement Letter to

enable her to proceed with the construction as per the building permission, the authorities instead had issued the impugned letter of revocation mentioning various shortfalls.

5. Petitioner further contends that she would comply with the other shortfalls mentioned in the revocation letter except the shortfall directing the petitioner to obtain NOC from the Collector for grant of municipal permission for construction, since the same cannot be insisted upon as per the law laid down by this Court in W.P.No.16868/2022, dt.26.04.2022, W.P.No.20717/2022, dt.22.04.2022, W.P.No.25727/2000, dt.25.04.2001.

6. Petitioner further contends that if this Court were to interdict the respondents from insisting for production of NOC from the Revenue authorities, the petitioner would comply with the other objections raised in the impugned revocation letter, and the respondents be directed to consider for grant of building permission to the petitioner based on the application made on 16.10.2023.

7. In support of the above said contention, petitioner has also placed reliance on the judgment of this Court in **Hyderabad Potteries Private Limited v. Collector, Hyderabad**¹ and **K.Pavan Raj v. The Municipal Corporation of Hyderabad**².

¹ MANU/AP/0361/2001=2001(3) ALD 600

² 2008(1) ALD 792

8. Per contra, learned Government Pleader as well as the learned Standing Counsel appearing for the respondents submit that the authorities have revoked the building permission obtained by the petitioner through TS-bPASS online process since verification caused by the respondents-authorities revealed that the subject property has been put in the Prohibitory List on account of the proceedings issued by the Collector, and therefore, the respondents-authorities could not sanction the building permission by processing the said application submitted by the petitioner.

9. Learned Standing Counsel, however, does not dispute the position of law held by this Court in various decisions cited by the petitioner across the Bar.

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

11. The issue pertaining to the authorities insisting for NOC from the Revenue authorities for grant of building permission is no longer *res integra*. This Court on numerous occasions held that the authorities, who are conferred with power to grant building permission, are only required to examine as to whether the applicant has a *prima facie* title to the property and possession thereon, and cannot travel beyond the above aspect for grant of building permission. Therefore, since the authorities can only examine *prima facie* title of the applicant and also mere grant of building permission was held do not confer title to the property [see **Hyderabad Potteries**

Private Limited's case(1 supra)], the authorities cannot insist for obtaining NOC from revenue authorities.

12. In view of the above settled position of law, this Court is of the view that the insistence of the respondents-authorities to obtain No Objection Certificate from the Revenue authorities for grant of building permission in favour of the petitioner, cannot be held to be valid. Accordingly, to the said extent alone, the impugned revocation letter is set aside.

13. However, since it is contended by the respondents-authorities that there are other shortfalls, which the petitioner is required to comply with, this Court is of the view that the petitioner is to be directed to resubmit the application through online process after complying with the other shortfalls raised in the impugned revocation letter. Further, upon the petitioner submitting the revised application duly complying all the shortfalls noted in the revocation notice, except the requirement of having to obtain NOC from the Revenue authorities, the respondents-authorities are directed to process the same within the time prescribed under the TS-bPASS Act, 2020 and by ensuring that the permission sought for is in compliance with the provisions of the Greater Hyderabad Municipal Corporation Act, 1955 otherwise.

14. Subject to the above directions, the Writ Petition is partly allowed. No order as to costs.

15. Consequently, miscellaneous petitions, if any, pending shall stand closed.

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

//TRUE COPY//

To,

1. The Principal Secretary (MAUDA), State of Telangana, B.R. Ambedkar T.S. Secretariat, Hyderabad.
2. The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund, Hyderabad.
3. The Deputy Commissioner, GHMC, Serilingampally, Ranga Reddy Dist.
4. The District Collector, Ranga Reddy District At Kongara Kalan Village Ibrahimpatnam, Kongara Kalan, Telangana.
5. The Joint Collector, Ranga Reddy District At Kongara Kalan Village, Ibrahimpatnam, Kongara Kalan, Telangana
6. The Tahasildar, Serilingampally, Ranga Reddy District.
7. One CC to Sri Gurram Raghu, Advocate [OPUC]
8. One CC to Sri M.A.K. Mukheed, SC for GHMC [OPUC]
9. Two CCs to GP for Municipal Administration and Urban Development, High Court for the State of Telangana. [OUT]
10. Two CCs to GP for Revenue, High Court for the State of Telangana. [OUT]
11. Two CD Copies

GJ
GJP

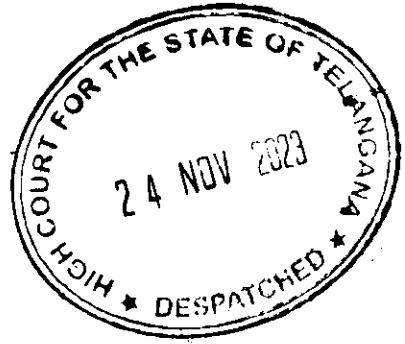
~~V. A.~~

HIGH COURT

DATED:14/11/2023

ORDER

WP.No.31393 of 2023



**PARTLY ALLOWING THE WRIT PETITION
WITHOUT COSTS**

(15) VLV
24/11/23