

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

TUESDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 21446 OF 2019.

Between:

Surath Mohandas, S/o. S. Venu Gopal Rao Aged: 71 years, Occ: Doctor,
R/o. H.No.8-2-542N/1, Road No.7 Opposite E Seva, Banjara Hills Hyderabad;
Telangana - 500034

...PETITIONER

AND

1. The State Government of Telangana, Rep., by its Principal Secretary
Municipal Administration Department Secretariat Buildings, Hyderabad.
2. The Greater Municipal Corporation of Hyderabad, Rep., by its Commissioner
Tankbund, Hyderabad.
3. The Zonal Commissioner, Greater Municipal Corporation of Hyderabad
Tankbund, Hyderabad.
4. The Deputy Commissioner Circle 14, (Kukatpally 14 A) GHMC Kukatpally.
Hyderabad.
5. The Assistant City Planner/Town Planning Officer Circle Office, Circle 14
(Kukatpally 14 A) GHMC, Kukatpally. 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 a writ or a direction more particularly in the nature of Writ of MANDAMUS to declare the letter No. 3/C23/09872/2019 Dt. 31-5-2019 issued by the respondent in refusing to grant building permission to the petitioners in respect of plot No. 192 situated in S.No. 1007 of Bagh Ammer village, Kukatpally Mandal, Medchal District as discriminatory being violative of Article 14 of Constitution of India, arbitrary and unjust

IA NO: 1 OF 2019

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 respondents to grant building permission without reference to any civil cases or title disputes in respect of Plot No. 192 situated in S. No. 1007 of Bagh

Ammer village, Kukatpally Mandal, Medchal District pending disposal of the above writ petition

Counsel for the Petitioner: SRI. P. VENKAIAH NAIDU

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

Counsel for the Respondents No.2to5:SRI.M. DHANANJAY REDDY

The Court made the following: ORDER

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

W.P.No.21446 of 2019

ORDER

This Writ Petition is with the following prayer;

“to issue a writ or a direction more particularly in the nature of Writ of MANDAMUS to declare the letter No.3/C23/09872/2019 Dt 31-5-2019 issued by the respondent in refusing to grant building permission to the petitioners in respect of plot No.192 situated in S.No.1007 of Bagh Ammer village, Kukatpally Mandal, Medchal District, as discriminatory being violative of Article 14 of Constitution of India arbitrary and unjust”.

2. Learned Senior counsel Mr. Ravi Shankar Jandhyala, representing the learned counsel for the petitioner Mr. P. Venkaiah Naidu, submits that a shortfall notice was issued to the petitioner stating that there are several Court cases pending in Sy.No.1007, Kukatpally Village, Near Allapur area over the title dispute and suggested for shortfall and in view of the same, the proposals and the plans were returned unapproved without any sanction and the petitioner shall not commence any type of construction till the specific sanction is obtained from GHMC. Learned Senior Counsel submits that mere pendency of cases is not a ground and the respondent Corporation does not even mention what cases are pending. He submits that while considering the application seeking building permission, the respondent Corporation can only look at the *prima facie* title and legal possession and apart from that they cannot look

into any other issues. He has also relied on the order passed by this Court in **Hyderabad Potteries Private Limited v. Collector, Hyderabad District and another**¹.

3. Learned Standing Counsel for respondent Nos.2 to 5 Mr. M. Dhananjay Reddy submits that in view of several pending litigations in respect of the said survey number, the respondent Corporation has issued the shortfall notice.

4. In **Hyderabad Potteries' s** case (1 supra) this Court has held that;

"Of course, the Commissioner has to consider the objections, if any, raised for grant of permission. But, an objection raised by a member of the Committee itself would not be enough to reject the application for grant of permission. The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objector (s), whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law. Similarly, the Commissioner is not entitled to decide any disputed questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purposes of granting permission and nothing more".

¹ 2001(3) ALD 600

5. This Court is not able to appreciate the contention of the learned Standing Counsel. Even in the order impugned, the respondent Corporation has not mentioned what are the litigations pending in respect of Sy.No.1007, Kukatpally Village, Near Allapur Area. In the light of the law laid down by this Court in **Hyderabad Potteries' s case (1 supra)**, the respondent Corporation shall consider the petitioner's application seeking building permission. Accordingly, the order impugned dated 31-05-2019 is set aside.

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

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

SD/-G.SIREESHA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration Department Secretariat Buildings, State Government of Telangana, Hyderabad.
2. The Commissioner, Greater Municipal Corporation of Hyderabad, Tankbund, Hyderabad.
3. The Zonal Commissioner, Greater Municipal Corporation of Hyderabad Tankbund, Hyderabad.
4. The Deputy Commissioner Circle 14, (Kukatpally 14 A) GHMC Kukatpally, Hyderabad.
5. The Assistant City Planner/Town Planning Officer Circle Office, Circle 14 (Kukatpally 14 A) GHMC, Kukatpally, Hyderabad
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. P. VENKAIAH NAIDU, Advocate [OPUC]
8. Two CD copies

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HIGH COURT

DATED:13/12/2022

ORDER

WP.No.21446 of 2019



**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

(11) Copies
Sm
24/01/23