

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

MONDAY THE FIRST DAY OF OCTOBER
TWO THOUSAND AND SEVEN

: PRESENT:

THE HON'BLE SHRI JUSTICE: BILAL NAZKI
AND
THE HON'BLE SHRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos. 21729 of 1998 and 12214 of 1999

WRIT PETITION Nos. 21729 of 1998

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Between:

M/s. Philomena Education Foundation India, A Charitable Trust, rep. by its
Sole Trustee, Dr. Y. Philomena, 6-3-1089, Somajiguda, Hyderabad.

... Petitioner

AND

1. Municipal Corporation of Hyderabad, rep. by its Commissioner,
Hyderabad.
2. Chief City Planner, Town Planning Section, Hyderabad.

... Respondents

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the petition affidavit filed herein, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ order or direction declaring the proceedings bearing No. 480/TPs/CCP/97-2995 dated: 18/19-12-1997 as illegal and command the respondents to grant building permission as sought for by the petitioner in its application dated: 25-11-1997 in file NO. 480/TPs/CCP/97 and cease from interfering with the proposed construction;

WRIT PETITION No. 12214 of 1999

Between:

1. T. Rajagopala Reddy, S/o. Late Sri T. Babu Reddy, R/o. 6-3-1089/A/4, Gulmohar Avenue, Somajiguda, Hyderabad.
2. G.V. Sanjay Reddy, S/o. G.V. Krishna Reddy, R/o. 6-3-1089/A/5, Gulmohar Avenue, Somajiguda, Hyderabad.
3. Ramakrishna Malkhani, S/o. Late Seth Laxman Das, R/o. 6-3-1089/A/83, Gulmohar Avenue, Somajiguda, Hyderabad.
4. Gulmoha Avenue Residents' Welfare Association, rep. by Mrs. Sudha Jalan through her here GPA Mr. O.P. Jalan, R/o. 6-3-1089/A/3/4 & 5, Gulmohar Avenue, Somajiguda, Hyderabad.

Petitioners

AND

- 1 Philomena Education Foundation India A charitable Trust, rep. by its sole Trustee Dr. Y. Philomina, 6-3-1089, Somajiguda, Hyderabad.
- 2 Municipal Corporation of Hyderabad, rep. by its Commissioner.

..2..

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the petition affidavit filed herein, the High Court may be pleased to issue a 'Writ of Certiorari' quashing the sanction accorded to the Respondent No. 1 Society by the Respondent No. 2 Corporation for construction of buildings under permit No. 430/91 in file No. 163/TP5/92 dt: 09-06-1994 and the permission accorded by the Respondent No. 3 to Respondent No. 1 for starting a Degree College commencing from Academic Year 1998-99 onwards;

Whereas the Court upon perusing the petitions and the affidavits filed herein and the order of the High Court dated: 24-07-2007 & 13-09-2007 made herein and upon hearing the arguments of Ms. C. Sindhu Kumari, Advocate for the petitioner in WP. No. 21729 of 1998 and of Sri Y. Ratnakar, Advocate for the petitioners in WP. NO. 12214 OF 1999 and of the Special Government Pleader for the Respondent No. 3, in WP. No. 12214 of 1999, made the following

ORDER:

"Learned Counsel for the petitioner is not present and on his behalf of Sri A.V. Seshasai is present and submits that Mr. Prasad is not well and seeks an adjournment.

These two writ petitions have been filed challenging the permission granted to the private respondent for construction of a building. The further grievance of the writ petitioners is that a floor was constructed without even the permission. Some time before, the Court had asked the Commissioner, Municipal Corporation of Hyderabad to file a status report and the Commissioner had reported that certain portions of the buildings were constructed without obtaining any permission and certain portions like cellar were being used as class rooms although they had been allowed to be constructed for parking. When the case came up for hearing Senior Counsel appearing for the private

respondent submitted that the report of the Commissioner of Municipal Corporation may not be taken into consideration as it is the report by an adversary in these proceedings. We found force in this argument and appointed the Registrar General of this Court as Commissioner, who has given his report and even according to this report, certain portions of the building have been constructed without permission and certain portions are being used for which permission was not granted. Therefore, the learned counsel for the respondent was asked on the last date of hearing as to whether his client was ready to remove those portions which admittedly had been constructed without permission and Mr. Prasad sought time to get instructions from his client. Today it is reported that the respondent will file an affidavit to this effect by next date of hearing.

..3..

List the case on 04-10-2007, in the meantime we have seen a report in the 'Deccan Chronicle' published at Hyderabad on 28-09-2007 in which a news item appears on its page 5 with the following head line "Pull down Villa Marie's illegal floor, orders HC". The news item contains the story that this Court ordered demolition of a floor of the Villae Marie's college, but as a matter of fact, no such order was passed by the Court. Therefore let the Correspondent who reported this matter to Deccan Chronicle explain as to in what circumstances such a report was published by him in the news paper. A notice shall be served on the editor A.T. Jayanti of the Deccan Chronicle who shall make arrangements to serve this Notice on the correspondent who had reported the matter.

List on 04-10-2007".

SD/- V. RAMAKRISHNA
ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. Dr. Y. Philomina, Sole Trustee, Philomena Education Foundation India A Charitable Trust, 6-3-1089, Somajiguda, Hyderabad.
2. The Commissioner, Municipal Corporation of Hyderabad.
3. The Secretary, Ministry of Education, Government of Andhra Pradesh, Hyderabad. (ADDRESSEES 1 TO 3 BY SPECIAL

MESSENGER).

4. The Registrar General, High Court of A.P. Hyderabad. (BY SPL.MESSENGER)
5. The Commissioner, Municipal Corporation of Hyderabad, Hyderabad.
6. The Chief City Planner, Town Planning Section, Hyderabad.
7. Sri A.T. Jayanthi, Editor, the Deccan Chronicle Daily Newspaper (English), Hyderabad. (BY SPECIAL MESSENGER)
8. Two CCs to the Advocate General, High Court Bldgs., Hyderabad. (BY SPL.MESSENGER)
9. Two CCs to the Spl. Govt. Pleader, High Court of A.P., Hyderabad. (BY SPL.MESSENGER)
10. The Registrar (Judicial), High Court of A.P., Hyderabad (for kind perusal)
11. One CC to Ms. C. Sindhu Kumari, Advocate (OPUC)
12. Sri Y. Ratnakar, Advocate (OPUC)
13. Two Spare Copies

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HIGH COURT

**BNJ
&
RRJ**

DATE: 01-10-2007

NOTE: LIST THE CASE ON 04-10-2007

ORDER

WRIT PETITION Nos. 21729 of 1998 and 12214 of 1999

DIRECTION