

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.7069 of 2005

Between:

Syed Rafeeqe s/O Syed Ahmed,

R/O H.NO.16-7-435, Malakpet,

Hyderabad.

..... PETITIONER

AND

1. Municipal Corporation of Hyderabad,

rep., by its Commissioner, office at

at Tank Bund, Hyderabad.

2. The Assistant City Planner, Circle-I,

M.C.H., Hyderabad.

3. The Mandal Revenue Officer,

Saidabad Division, Hyderabad.

4. The Station House Officer,

Chaderghat P.S., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus declaring the action of the respondents in threatening to demolish the structures raised in Plot admeasuring 50.05 square yards or 41.85

square metres, situated at Murkinala, Malakpet of Ward No.16, Block No.8, Hyderabad without receiving the explanation submitted by the petitioner to the show cause notice dated 23.3.2005, more so when the construction does not fall under any of the violations specified in Sections stated in the show cause notice dated 23.3.2005, as illegal, arbitrary, unconstitutional and consequently direct the respondents not to take any coercive steps to demolish or interfere with the construction work.

Counsel for the Petitioner: C.Hanumanth Rayudu

Counsel for the Respondent Nos.1 and 2 : Rama Rao Ghanta (SC for Municipality)

Counsel for the Respondent No.3: G.P. for Revenue

Counsel for the Respondent No.4 : G.P. for Home

The Court at the stage of admission made the following :

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ORDER:

The petitioner was served with a show cause notice dated 23.03.2005 issued by the second respondent alleging that the petitioner has violated the provisions of Sections 428, 433 and 423 of Hyderabad Municipal Corporation Act, 1955(for short "the Act") and thereby, calling upon him to show cause in writing within seven days from the date of receipt of the said notice as to why the constructions made by him unauthorisedly shall not be removed.

The petitioner states that soon after the receipt of the said notice, he has submitted an explanation to the respondents on 28.03.2005. But the respondents refused to receive the same and have been taking steps to remove the constructions in question highhandedly. Hence this writ petition.

The specific case of the petitioner is that, in response to the show cause notice, he has submitted an explanation denying the allegations made therein. A copy of the said explanation dated 28.03.2005 has been filed at page 24 of the material papers along with the writ petition.

In the circumstances, the respondents ought to have considered the explanation offered by the petitioner and ought to have passed appropriate orders. Without passing any final order, the respondents cannot resort to demolition of the constructions in question.

Accordingly, the writ petition is disposed of with a direction to the respondents to consider the explanation of the petitioner, dated 28.03.2005 filed at page 24 of the

material papers in this writ petition and to pass appropriate orders in accordance with law. Till such orders are passed, the respondents are directed not to interfere nor demolish the structures raised by the petitioner in the plot admeasuring 50.05 square yards situated at Ward No.16, Block No.8, Murkinala, Malakpet Hyderabad. No costs.

31.03.2005

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To

1. The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.

2. The Assistant City Planner, Circle-I,
M.C.H., Hyderabad.

3. The Mandal Revenue Officer,
Saidabad Division, Hyderabad.

4. The Station House Officer,
Chaderghat P.S., Hyderabad.

5. 2 CCs to G.P for Revenue, High Court Buildings, Hyderabad (OUT)

6. 2 CCs to G.P for Home, High Court Buildings, Hyderabad (OUT)

7. 2 CD copies.