

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

[3166]

FRIDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION NO: 14894 OF 2024

Between:

Kududhula Kamalakar, S/o Kududhula Mohan Rao, Aged about 34 years,
Occ. Business, R/o 1-1-750/5, Gandhi Nagar, New Bakaram, Hyderabad.

AND

...PETITIONER

1. The State of Telangana, Rep by its Principal Secretary (M A U D), Secretariat Buildings, Hyderabad.
2. The Greater Hyderabad Municipal Corporation, Rep by its Commissioner, Hyderabad.
3. The Deputy Commissioner, GHMC Serilingampally, Circle-20, Ranga Reddy District.

...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 any writ, order or direction more particularly one in the nature of writ of mandamus declaring the illegal action of the respondents more particularly respondent no.3 herein in revoking the building permission of the petitioner by passing the impugned Revocation Letter vide Lr.No.395228/GHMC/7581/2024 dated 23-05-2024, in respect of Stilt for parking PLUS 2 Upper Floors, residential building on petitioner's property i.e., Southern Part of H.No.1-57/1039 and 1040/ on Plot No.1040-B, situated at Sri Ram Nagar Colony, B-Block, beside Botanical Garden, Kondapur Village, Serilingampally Mandal, Ranga Reddy District, without following due procedure of law as illegal, arbitrary, in violation of Articles 14, 21 and 300-A of Constitution of India, in violation of GHMC Act, besides being in violation of principles of natural justice and to consequently setaside the impugned Revocation Letter vide Lr.No.395228/GHMC/7581/2024, dated 23-05-2024, including the direction to the

respondent Nos.2 and 3 herein to process and accord the building permission application of the petitioner dated 25-04-2024 in respect of Stilt for parking PLUS 2 Upper Floors, residential building on petitioner s property i.e., Southern Part of H.No.1-57/1039 and 1040/ on Plot No.1040-B, situated at Sri Ram Nagar Colony, B-Block, beside Botanical Garden, Kondapur Village, Serilingampally Mandal, Ranga Reddy District

IA NO: 1 OF 2024

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 impugned Revocation Letter vide Lr.No.395228/GHMC/7581/2024 dated 23-05-2024, including the direction to the respondent Nos.2 and 3 herein to process and accord the building permission application of the petitioner dated 25-04-2024 in respect of Stilt for parking + 2 Upper Floors, residential building on petitioner s property i.e., Southern Part of H.No.1-57/1039 and 1040/ on Plot No.1040-B, situated at Sri Ram Nagar Colony, B-Block, beside Botanical Garden, Kondapur Village, Serilingampally Mandal, Ranga Reddy District pending disposal of the above writ petition

Counsel for the Petitioner: SRI E. VENKATA SIDDHARTHA

**Counsel for the Respondent No.1: GP FOR MUNICIPAL
ADMINISTRATION AND URBAN DEVELOPMENT**

Counsel for the Respondent No.2: SRI M.A.K. MUKHEED, SC FOR GHMC

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.14894 OF 2024

ORDER:

Heard learned Counsel for the petitioner, learned Government Pleader for Municipal Administration & Urban Development appearing for respondent No.1 and Sri M.A.K. Mukheed, learned Standing Counsel appearing for the respondent Nos.2 and 3 and perused the record.

2. The case of the petitioner, in brief, is that he is the absolute owner and possessor of the subject property i.e, southern part of H. No.1-57/1039 and 1040 on plot No.1040-B, situated at Sri Ram Nagar Colony, B-Block, beside Botanical Garden, Kondapur village, Serilingampally Mandal, Ranga Reddy District having purchased the same under registered sale deed executed on 04.11.2019.

3. It is the further case of the petitioner that intending to construct building therein, he had approached the respondent authorities and had obtained instant approval under TS-bPASS Act, 2020 through online application process on 25.04.2024; that the authorities thereafter have issued a show cause notice dated 07.05.2024 raising objection for grant of building

permission on the ground that the subject site is covered by Government land and has been entered in prohibitory watch register recording as ceiling surplus land and therefore the *prima facie* title is not established; and that by the show cause notice, it is further stated that the proposed site is falling in unapproved layout and the same is not regularized under any G.O. issued by the Government from time to time.

4. Petitioner contends that on the aforesaid show cause being issued, he had submitted his explanation on 21.05.2024 enclosing therewith LRS proceedings whereby the subject property has been regularized on 19.11.2012.

5. Petitioner further contends that insofar as the claim of the respondent that the subject property has been entered in the prohibitory list by showing the same as Government land being a ceiling surplus land is concerned, the said objection cannot be sustained inasmuch this Court had considered the aforesaid issue and had held that the respondent authorities for grant of building permission cannot claim the subject land as ULC land, since it is for the ULC authorities to ensure that the land vested with the said authority is not being occupied or constructions coming up therein. Thus, by submitting as above, learned

Counsel for the petitioner contends that the impugned revocation order dated 23.05.2024 has been passed, without taking the aforesaid aspects into consideration and therefore it is liable to be set aside.

6. *Per contra*, learned Standing Counsel appearing on behalf of respondent Nos.2 and 3 would submit that since the building permission has been obtained by the petitioner under TS-bPASS Act, 2020, the petitioner has an effective remedy of review of the said decision under Section 18 of the Act.

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

8. Though the petitioner contends that this Court while allowing various Writ Petitions had directed the respondent authorities to process the building application submitted by the applicants therein it is to be noted that in similar circumstances in W.P. No.7211 of 2024 and W.P. No.8254 of 2024 wherein the revocation proceedings have been challenged, taking note of the provisions of TS-bPASS Act, 2020, being a special enactment having overriding effect on other laws and also the provisions of Section 18 of the TS-bPASS Act, 2020 directed the petitioner therein to file an application seeking review of the decision of revocation of the provisional building permission along with

relevant documents and also various orders passed by this Court wherein this Court had held that the Municipal authorities while granting building permission are only required to look into *prima facie* title and legal possession and cannot insist upon obtaining NOC/ULC clearances from the revenue authorities.

9. Since, in the facts of the present case also, the authorities having issued a revocation letter whereby the provisional building permission obtained by the petitioner on 25.04.2024 has been revoked after issuing show cause notice, this Court is of the view, that instead of this Court undertaking the aforesaid exercise of going into the merits and demerits of the respective claims by calling for counter-affidavit from the respondents, the petitioner should be relegated to avail the remedy of review provided under Section 18 of the TS-bPASS Act, 2020.

10. Accordingly, the Writ Petition is disposed of permitting the petitioner to file an application seeking review of the decision of the revocation of the provisional building permission vide the impugned proceeding dated 23.05.2024 along with all the relevant documents and also the orders of this Court wherein it was held that the objection relating to the subject land being

recorded as ceiling surplus land cannot be taken for either rejection of the building permission or revocation of the building permissions granted.

11. Upon the petitioner approaching the concerned authorities and making an application under Section 18 of the TS-bPASS Act, 2020, the authorities shall consider the said application filed at the earliest preferably within a period of two months from the date of receipt of a copy of receipt of the application by the authorities concerned.

12. Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

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

SD/- MOHD.SANAULLAH ANSARI
ASSISTANT REGISTRAR
/TRUE COPY//
SECTION OFFICER

To,

1. The Principal Secretary (M A U D), Secretariat Buildings, T.S., Hyderabad.
2. The Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad.
3. The Deputy Commissioner, GHMC Serilingampally, Circle-20, Ranga Reddy District.
4. One CC to SRI. E VENKATA SIDDHARTHA, Advocate [OPUC]
5. Two CCs to GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT ,High Court for the State of Telangana, at Hyderabad [OUT]
6. One CC to SRI. M.A.K. MUKHEED, SC FOR GHMC [OPUC]
7. Two CD Copies

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HIGH COURT

DATED:28/06/2024



ORDER

WP.No.14894 of 2024

**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

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19/07/24
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