

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

FRIDAY, THE THIRTY FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO: 4719 OF 2014

Between:

1. Badruka Enclave Apartment Owners Association, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034 Represented by its President Sri B. Rosayya S/o Late Sri B. Koteswar Rao
2. Sri B. Rosayya [President], S/o Late Sri B. Koteswar Rao Age 56 years, Occ. Social Worker R/o Flat No.B-302,B-303, Badruka Enclave Apartment No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034
3. Sri R.K. Agarwal [Vice President], S/o Late Sri S.R. Agarwal Age 71 years, Occ. Business Badruka Enclave Apartment No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034
4. Sri Suresh Kumar[Secretary], S/o Sri K.V.V. Satyanarayana Age 34 Years, Occ. Software Professional Flat No. B-103, Badruka Enclave Apartment No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034
5. Sri Pradeep Kumar Mathur [Advisor], S/o Late Sri R.S. Mathur Age 54 years, Occ. Pvt. service R/o Flat No.305, Badruka Enclave Apartment No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034
6. Smt. Anitha Agarwal [Executive Member], W/o Sri Biswajith Agarwal Age 45 years, Occ. Housewife R/o A-204, Badruka Enclave Apartment No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034
7. Sri Manoj Agrawal [Executive Member], S/o Sri Rameshchand Agarwal Age 41 years, Occ. Business R/o B-9, Badruka Enclave Apartment No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034

...PETITIONERS

AND

1. Greater Hyderabad Municipal Corporation [GHMC], Represented by its Commissioner Tank Bund Road, Hyderabad
2. The Commissioner, GHMC Tank Bund Road, Circle-10 Khairatabad, Hyderabad 500 082
3. ACP Town Planning, GHMC, Khairatabad, Hyderabad
4. Mr. VijayendraNavvada, S/o not known to the Petitioners Aged: about 55 years, Occ. Not known R/o Flat No. A-1, A-2, A-5 Badruka Enclave Apartment, No. 8-2-683/A, Road No.12 Banjara Hills, Hyderabad 500 034

And also at: Opp. Main Gate of Ministers Quarters Road No.12, Banjara Hills,
Hyderabad-500034

...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 said inaction on part of the Officials of Respondents in taking action on the representations 29.12.2013 and 6.2.2014 as nonest in law, arbitrary, ultra vires the powers with the officials of the Respondents under the GHMC Act

I.A. NO: 2 OF 2014(WPMP. NO: 5855 OF 2014)

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 Official Respondents to forth with demolish the unauthorized and illegal constructions carried out by the 5th Respondent in the open and setback areas of Badruka Enclave Apartment, situated at Badruka Enclave, 8-2-683/A, Road No.12, Banjara Hills, Hyderabad 500 034

I.A. NO: 1 OF 2014(WVMP. NO: 729 OF 2014)

Between:

8. Vijayendra Navvada, S/o Narasimulu Aged: about 44 years, R/o. 8-2-682/32/3, Opposite Minister Quarters Road No.12, Banjara Hills, Hyderabad

...PETITIONER/RESPONDENT No.5

VERSUS

1. Badruka Enclave Apartment Owners Association, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad - 34 Rep. by its President B. Rosayya S/o Late B. Koteswar Rao
2. Sri B. Rosayya, S/o B. Koteswar Rao Aged 56 years, Flat No.B 302 & 303, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad
3. R.K. Agarwal S/o Late Sri S.R. Agarwal Age 71 years, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad
4. Sri Suresh Kumar S/o K.V.V. Satyanarayana Aged 34 Years, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad
5. Sri Pradeep Kumar Mathur S/o R.S. Mathur, Aged 54 years, Badruka Enclave 8-2-683/A, Road No.12 Banjara Hills, Hyderabad
6. Smt. Anitha Agarwal, W/o Sri Biswajith Agarwal Aged 45 years, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad
7. Sri Manoj Agrawal, S/o Sri Rameshchand Agarwal Aged 41 years, Badruka Enclave, 8-2-683/A, Road No.12 Banjara Hills, Hyderabad

...RESPONDENTS/WRIT PETITIONERS

8. Greater Hyderabad Municipal Corporation [GHMC], Represented by its Commissioner Tank Bund Road, Hyderabad

9. The Commissioner, GHMC Tank Bund Road, Circle-10 Khairatabad,
Hyderabad 500 082

10. ACP Town Planning, GHMC, Khairatabad, Hyderabad

...RESPONDENTS/RESPONDENTS 1 to 4

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 vacate interim orders in W.P.M.P. No. 5855 of 2014 in W.P. No.4719 of 2014 dated 19-2-2014

**Counsel for the Petitioner: SRI T.S. PRAVEEN KUMAR REP. FOR
SRI M. PAPA REDDY**

Counsel for the Respondent No.1 to 3: SRI M. ARUN KUMAR (SC FOR GHMC)

Counsel for the Respondent No.4: SRI N. BHAVANI SHANKAR

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION No.4719 of 2014

ORDER:

This writ petition is filed to declare the action of respondent Nos.1 to 3 in not taking any action, pursuant to representations dated 29.12.2013 and 06.02.2014, made by the petitioners, as illegal, arbitrary and contrary to the powers vested with the respondents under GHMC Act.

2. Heard Sri T.S.Praveen Kumar, learned counsel for the petitioners, Sri M.Arun Kumar, learned Standing Counsel for respondents Nos.1 to 3 and Sri N.Bhavani Shankar, learned counsel for respondent No.4.

3. The case of the petitioners is that petitioner No.1 is a society registered under the Societies Registration Act and petitioner Nos.2 to 7 are the members of the Association. Respondent No.4 is also the member of petitioner No.1 and the owner of three flats bearing Nos.A1, A2 and A5 and also owned three stores near parking area, out of which, one is meant for power house room, which is for the benefit of the Association; that respondent No.4 without any authority started illegal construction in the set back area on 21.06.2005; that petitioner

No.1-Association submitted representation dated 20.07.2005 and 16.08.2005 to respondent No.1 and the respondents Corporation has taken action and demolished the unauthorized construction made by respondent No.4. Later, respondent No.4 again raised unauthorized structures in the cellar area and that petitioner No.1-Association submitted representations dated 29.12.2013 and 06.02.2014 to respondents Corporation, however, the respondents Corporation has not taken any action. Aggrieved by the same, present writ petition is filed.

4. Learned Standing Counsel for respondent Nos.1 to 3 would submit that respondents Corporation issued show-cause notice dated 10.05.2024 to respondent No.4, to which a reply was given on 27.05.2024 and on considering the said reply, respondents Corporation passed the impugned Order dated 29.07.2024, directing the respondent No.4 to remove unauthorized construction made in the cellar portion, failing which, further action will be taken.

5. Learned Counsel for respondent No.4 would submit that respondent No.4 has made an application for regularization of the construction in terms of G.O.Ms.No.152 MA, dated

/

02.11.2015 vide application No.2000098599, dated 30.01.2016 and the same is pending.

6. Learned Standing Counsel for respondent Nos.1 to 3 submits that as and when the BRS application of respondent No.4 is disposed of, the respondent-Corporation will take further course of action basing on the outcome of the BRS application of respondent No.5.

7. This Court has given its earnest consideration to the submissions made by learned counsel for both the parties and perused the entire material on record.

8. It is relevant to note that the Government of Telangana has formulated Rules for regularization of unauthorized/illegal constructions, which are constructed in deviation of sanctioned plan or without permission, vide GO.Ms.No.152, dated 02.11.2015. As per the said G.O., the application for regularization of unauthorized construction has to be submitted within a period of 60 days from the date of notification of the said Rules along with 50% of regularization amount as per Rule 5 or minimum of Rs.10,000/- whichever is less. The competent authority, i.e., Municipal Commissioner in case of Municipal

Corporations, Metropolitan Commissioner in case of HMDA, shall, on scrutiny of applications and inspection of sites, either approve or reject the applications and communicate the same to the applicant(s) concerned as early as possible, but not beyond six months from the date of receipt of applications.

9. The Regularization Rules were notified on 02.11.2015, as per which, applications for regularization were to be filed within 60 days from the said notified date and the same were supposed to be processed within a period of six months from the last date of receipt of applications

10. The regularization scheme under GO.Ms.No.152, dated 02.11.2015 was challenged in WP (PIL).No.63 of 2016, wherein interim directions were passed by a Division Bench of this Court on 18.10.2016 as under:-

"We consider it appropriate, in such circumstances, to modify the earlier order, and direct that the applications for regularization be processed in accordance with the regularization scheme notified in G.O.Ms.No.152 dated 02.11.2015. In case the GHMC or the other Municipal Corporations in the State of Telangana, after considering the applications for regularization, decide to reject the request for regularization, it is open to them to communicate the

orders of rejection to the applicants concerned, and thereafter take action for demolition of the illegal structures in accordance with law. In such of those cases where the GHMC, or the other Municipal Corporations, tentatively decide to regularize the illegal structures, such a decision shall merely be recorded in the file, and shall neither be given effect to nor shall it be communicated to the applicants, pending further orders from this Court."

11. Subsequently, the said WP(PIL) along with a batch of Writ Petitions was disposed of vide order, dated 28.04.2021, with a direction that the interim order dated 18.10.2016 passed in W.P.(PIL).No.63 of 2016 shall continue to operate till a decision is taken by the Supreme Court on W.P.(Civil) No.1236 of 2020.

12. It is appropriate to refer to the recent judgment of the Hon'ble Supreme Court in ***Rajendra Kumar Barjatya and another Vs. U.P. Avas Evam Vikas Parishad and others***¹, wherein the Hon'ble Supreme Court by referring to a catena of decisions, viz., ***K.Ramadas Shenoy Vs. Chief Officers, Town Municipal Council***², ***Dr. G.N.Khajuria and others Vs. Delhi Development Authority and others***³, ***M.I. Builders***

¹ 2024 SCC Online SC 3767

² (1974) 2 SCC 506

³ (1995) 5 SCC 762

(Petitioner) Ltd Vs. Radhey Shyam Sahu⁴, Esha Ekta Apartments Co-Op Housing Society Limited Vs. Municipal Corporation of Mumbai⁵, Supertech Limited Vs. Emerald Court Owner Resident Welfare Association and others⁶, Kerala State Costal Zone Management Authority Vs. Maradu Municipality⁷, State of Haryana Vs. Satpal⁸, has issued further directions in addition to the directions given in *Re: Directions in the matter of demolition of structures*, vide order dated 13.11.2024 in WP(Civil).Nos.295 and 328 of 2023, WP(Criminal).No.162 of 2022. The Hon'ble Supreme Court has specifically directed that in the event of any application/appeal/revision being filed by the owner or builder against non-issuance of completion certificate or for regularization of unauthorized construction or rectification of deviation, etc., the same shall be disposed of by the authority concerned, including the pending appeals/revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

⁴ (1999) 6 SCC 464

⁵ (2013) 3 SCC (Civil) 89

⁶ (2021) 10 SCC 1

⁷ (2021) 16 SCC 822

⁸ (2023) 6 SCC 643

13. In the instant case, since the grievance of the petitioners remains unredressed due to the pendency of the BRS application of respondent No.4, in the light of the aforesaid order dated 28.04.2021 passed by a Division Bench of this Court in WP(PIL) No.63 of 2013 and its batch, as well as the directions issued by the Hon'ble Supreme Court in *Rajendra Kumar Barjatya's case* (cited supra), the respondent Nos.1 to 3 (GHMC) are directed to process the application submitted by respondent No.4 for regularization of unauthorized/illegal construction, and to pass appropriate orders in accordance with the interim order dated 18.06.2016 passed in WP(PIL) No.63 of 2016, within a period of three months from the date of receipt of a copy of this order. Subject to result of the BRS application filed by respondent No.4, the respondent Nos.1 to 3 are directed to take appropriate action to redress the petitioner's grievance strictly in accordance with law.

14. Subject to above directions and observations, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-K.MADHAVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner, Greater Hyderabad Municipal Corporation [GHMC], Tank Bund Road, Hyderabad
2. The Commissioner, GHMC Tank Bund Road, Circle-10 Khairatabad, Hyderabad 500 082
3. ACP Town Planning, GHMC, Khairatabad, Hyderabad
4. One CC to SRI M. PAPA REDDY, Advocate [OPUC]
5. One CC to SRI M. ARUN KUMAR (SC FOR GHMC) [OPUC]
6. One CC to SRI N. BHAVANI SHANKAR, Advocate [OPUC]
7. Two CD Copies

HIGH COURT

DATED:31/10/2025

ORDER

WP.No.4719 of 2014



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

QMT
10/3/26