

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

WEDNESDAY, THE TWENTY FOURTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WRIT PETITION NO: 13478 OF 2010

Between:

1. J. Dharmichand S/o (Died as per LR P2), S/o Jawaharlal Business R/o 9-3-148, Regimental Bazar Secunderabad
2. J. Abhishek Lalwani, S/o. Late Sri J. Dharmichand, Aged about 41 years, Occ. Business, R/o. 9-3-148, Regimenal Bazar, Secunderabad.

Petitioner no.2 brought on record as LR of the deceased Petitioner no.1 as per C.O.dt.12.12.2025 in IA No.1/2023.

...PETITIONERS

AND

1. The Deputy Commissioner Greater Hyderabad Municipal Corporation Malkajgiri Circle, Malkajgiri, Hyderabad
2. The Commissioner, Greater Hyderabad Municipal, Corporation, Hyderabad
3. Sri Akula Rajendar, S/o Not known MLA R/o East Anandabag, Malkajgiri Hyderabad
4. The Tahasildar, Malkajigiri Mandal, R.R. District

R4 is impleaded as per C.O. dt. 3-8-10 in WPMP 23879 of 10

5. The Hyderabad Metropolitan Development Authority, Tarnaka, Hyd. rep. by its Commissioner

R5 is impleaded as per C.O. dt. 3-3-14

6. A.P. Wakf Board rep. by its C.E.O., Nampally, Hyd.

R6 is impleaded as per C.O. dt. 2-9-14

...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 writ of Mandamus or any other writ or order declaring that the notice dt. 10-6-2010 and order dated 30.06.2010 issued by the 1st respondent is illegal, malafide and discriminate and setaside the same.

(Prayer is amended as per C.O. dated 03.08.2010 in WP.MP.No. 24175 of 2010)

I.A. NO: 1 OF 2010(WPMP. NO: 16987 OF 2010)

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 stay all proceedings in pursuance of notice dt. 10-6-2010 issued by the 1st respondent

I.A. NO: 1 OF 2014(WPMP. NO: 7397 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 receive the addl. Documents in W.P.No.13478/2011 in the interests of justice

I.A. NO: 2 OF 2016(WPMP. NO: 53099 OF 2016)

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 set aside the order dated: 1.12.2016 dismissing the writ petition for default and restore the writ petition for hearing

Counsel for the Petitioners: SRI K. MALLIKARJUNA

**Counsel for the Respondent Nos. 1&2: SRI G. MADHUSUDHAN REDDY
(SC FOR GHMC)**

**Counsel for the Respondent No.3: Ms. NOUSHIN REP
SRI M.V. DURGA PRASAD**

Counsel for the Respondent No.4: GP FOR REVENUE

Counsel for the Respondent No.5: SRI V. NARASIMHA GOUD, SC FOR HMDA

Counsel for the Respondent No.6: SRI MIRZA SAFIULLA BAIG

The Court made the following: ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WRIT PETITION No.13478 of 2010

24.12.2025

Between:

J.Dharmichand and another

...Petitioners

AND

The Deputy Commissioner

Greater Hyderabad Municipal Corporation

Malkajgiri Circle, Malkajgiri, Hyderabad and 5 others

...Respondents

ORDER:

The Writ Petition is filed to declare impugned rejection order dated 30.06.2010 in rejecting the claim of the writ petitioners for regularization under Section 455-A of GHMC Act issued by the 1st respondent as illegal, malafide and indiscriminate and set aside the same.

2. The brief facts of the case are that the Jain Mandir along with the appurtenant building situated in Survey No.472 of Malkajgiri Village, Hyderabad were originally constructed to cater in the year 1999. In view of the increasing influx of devotees to cater their needs and to accommodate visiting disciples to conduct pujas,

religious ceremonies, petitioner No.1 constructed a building known as *Sitalalwani Bhavan* as part of the Jain Mandir and also have constructed a *Goshala* for keeping cattle. Further, it is contended that the entire land on which the Jain Mandir and Sitalalwani Bhavan constructed lies in Survey No.472 of Malkajgiri Village which is adjacent to land in Survey No.466 and the land in Survey No.472 was declared by the Hyderabad Urban Development Authority as land meant for dry agriculture and water body, while the land in Survey No.466 was declared partly as a conservation zone and partly as a residential zone. It is further contended that in the last two decades, hundreds of buildings were constructed in the said area without obtaining permission from the concerned municipal authorities. Initially, a notice dated 27.04.2009 under Section 452 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, 'the Act') was issued, by which time the entire construction of the subject building had already been completed. Subsequently, all of a sudden, the impugned notice dated 10.06.2010 was issued under Section 452 of the said Act at the behest of the 3rd respondent calling for explanation from the petitioners.

3. After filing the instant writ petition, as the application filed by petitioner No.1 dated 14.06.2010 under Section 455-A of the Act,

seeking regularization of the subject construction was rejected by letter dated 30.06.2010, on the ground that the land on which the Jain Mandir and the building were constructed falls within the Full Tank Level, (for short, "FTL") area, the said rejection order is challenged in the present writ petition by filing an amendment application which was ordered on 03.08.2010.

4. Heard Sri K.Mallikarjuna Rao, learned counsel for the petitioners, Sri G.Madhusudhan Reddy, learned Standing Counsel for GHMC for respondent Nos.1 and 2, Ms.Noushin, learned counsel representing Sri.M.V.Durga Prasad, learned counsel for respondent No.3 and Sri V.Narasimha Goud, learned Standing Counsel for HMDA for respondent No.5, Perused the record.

5. Learned counsel for the petitioners mainly contended that Section 455-A of the Act categorically provides for regularization of unauthorized constructions subject to payment of penalty, including imposition of 33% charges and despite the statutory provision, the application was rejected without proper consideration and without affording any opportunity of hearing to the petitioners before passing the orders. Thus, it is contended that there is violation of principles of natural justice as well as due procedures of law.

6. Sri G.Madhusudhan Reddy, learned Standing Counsel appearing for respondent Nos.1 and 2, placing reliance on the counter affidavit filed, submitted that a part of the Jain Mandir is situated in Survey No.472 of Malkajgiri. The Hyderabad Urban Development Authority (HUDA) has declared the land in Survey No.472 as land meant for dry agriculture and water body, while the land in Survey No.466 has been declared partly as a conservation zone and partly as a residential zone. It is further contended that the entire construction raised in the subject premises, consisting of Ground + Four floors, is unauthorized and illegal construction and it falls within the FTL area and therefore, the Corporation, issued Letter No.GHMC/MKJ/TPS/10-11, dated 30.06.2010 rejecting the petitioner's application for regularization, on the ground that the subject site falls within the FTL area as no construction is permitted in the FTL area as per the provisions of the Act, Building Bye-laws, and Regulations.

7. Ms.Noushin, learned counsel appearing for respondent No.3, who is a public representative, submitted that respondent No.3 had no involvement in the matter and had neither made any complaint nor taken any action in relation to the subject issue.

8. Sri Narasimha Goud, learned counsel appearing for respondent No.5, submitted that the competent authorities to deal with permissions and regulations under the GHMC Act are respondent Nos.1 and 2, and that the HMDA only facilitates the GHMC whenever the need arises.

9. As seen from the record, the main grievance of the petitioners is that the rejection of the regularization application filed under 455-A of the Act was not based on any proper or cogent report survey showing the land falling under FTL. The authorities failed to specify the report or material on the basis of which the land was concluded as falling within the FTL area. The rejection order dated 30.06.2010 merely states that the land is situated in the FTL area without disclosing any supporting findings or conclusions of the competent authorities.

10. Prima facie, a perusal of the order dated 30.06.2010 shows that the Authority, while passing the said order, has not dealt with the regularization application in a well-reasoned manner. The sole ground of rejection was that the land on which the building and Mandir were constructed falls within the FTL area. However, no report of any authority or any material was relied upon to conclude that the land indeed falls under the FTL area. On the other hand,

the provision under Section 455-A of the Act clearly indicates that if the land does not fall within the categories mentioned there under, the Commissioner may regularize the building by imposing a penalty of thirty-three percent (33%) and by collecting the requisite fees.

11. For better understanding, Section 455-A is extracted below:

“455A. (Regularisation of Buildings constructed without sanctioned plan).

“The Commissioner may regularize constructions made without obtaining a sanctioned plan, subject to the following conditions:

- (a) Submission of building plans to the competent authority, duly paying all categories of fees and charges;*
- (b) The construction shall comply with all parameters laid down in the relevant statutes, Master Plan, Zonal Development Plan, Building Bye-laws, Building Rules, and other relevant Government Orders, including the [Telangana] Fire Service Act, 1999 (Act No.15 of 1999) and the National Building Code;*
- (c) Payment of a penalty equivalent to thirty-three percent (33%) of the various categories of fees and charges payable by the applicant for obtaining building permission, in addition to the regular fees and other charges payable.”*

From the above provision, it is clear that authorities may reject an application for regularization only if the land falls within the prohibited categories, provided the applicant is given sufficient opportunity and the reasons for rejection are explicitly stated based on proper material and findings. The impugned order passed by the 1st respondent does not demonstrate that the subject land falls under the FTL zone based on report of the competent authorities. Therefore, the grievance of the petitioners that no opportunity was given and that the order was bereft of reasons, appears to be germane and valid. In such view of the matter, the impugned order needs to be interfered by this Court.

12. In the stated circumstances, the impugned rejection order dated 30.06.2010 is set aside, the respondent Nos.1 and 2 are hereby directed to consider the application of the petitioners for regularization afresh, taking into account of the reports of the competent authorities and pass orders in accordance with the provisions of Section 455-A as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order, after giving the petitioners an opportunity of being heard. It is needless to state that the authority concerned is at liberty to take further action pursuant to notice dated 10.06.2010,

subject to the outcome of the petitioners application for regularization, strictly by following due procedure under law.

13. The Writ Petition is accordingly allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

Sd/-B.REKHA RANI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Deputy Commissioner Greater Hyderabad Municipal Corporation
Malkajgiri Circle, Malkajgiri, Hyderabad
2. The Commissioner, Greater Hyderabad Municipal, Corporation, Hyderabad
3. The Tahasildar, Malkajgiri Mandal, R.R. District
4. One CC to SRI. K. MALLIKARJUNA, Advocate [OPUC]
5. Two CCs to GP FOR REVENUE High Court for the State of Telangana, at
Hyderabad [OUT]
6. One CC to SRI. G. MADHUSUDHAN REDDY (SC FOR GHMC) [OPUC]
7. One CC to SRI. M.V. DURGA PRASAD, Advocate [OPUC]
8. One CC to SRI. V NARASIMHA GOUD, (SC FOR HMDA) [OPUC]
9. One CC to SRI. MIRZA SAFIULLA BAIG, Advocate [OPUC]
10. Two CD Copies

B M /PMK

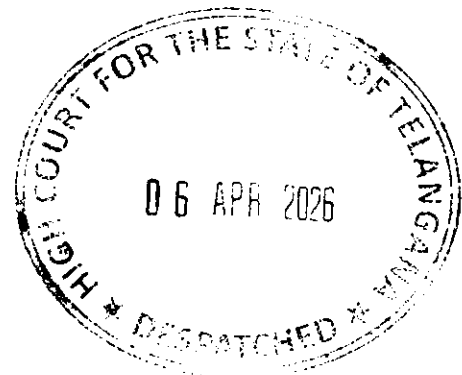
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HIGH COURT

DATED:24/12/2025

ORDER

WP.No.13478 of 2010



ALLOWING THE WRIT PETITION WITHOUT COSTS

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