

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

THURSDAY, THE THIRTIETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

WRIT PETITION NO: 23644 OF 2014 AND 11507 OF 2015

W.P.No.23644 of 2014

Between:

Mrs Aruna, W/o Mr Rajkumar Goud, Aged 35 years, Occ ; House Wife, R/o. 6-3-832/4, Ameerpet, Hyderabad-16.

.....PETITIONER

AND

1. The Commissioner, Greater Hyderabad Municipal Corporation, Near Tank Bund, Hyderabad.
2. The Deputy Commissioner, GHMC, Circle X, Hyderabad.
3. Mr Sampath Raj Jain, S/o Prem Raj Jain, Aged 62, Occ ; Business, Prem Jeweleery Mart, Near Monda Market Junction, Pot Market, Secunderabad.

.....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 order or direction more particularly one in the nature of writ of MANDAMUS declaring the inaction of the respondents No 1 and 2 in not taking the action against the illegal constructions of 3rd respondent herein in and over the premises NO 6-3-832/C/1/1, NO 6-3-832/3, NO 6-3-832//3/1, NO 6-3-832/3/2, and NO 6-3-832/1/1 situated at ameerpet, Hyderabad in spite of the representation of the petitioner dated 5th August, 2014 as illegal, arbitrary and un constitutional and consequently direct the respondent No 1 and 2, their officials and staff to stop the illegal constructions of 3rd respondent in and over the premises NO 6-3-832/C/1/1, NO 6-3-832/3, NO 6-3-832//3/1, NO 6-3-832/3/2, and NO 6-3-832/1/1.

I.A.NO:1 OF 2014 (WPMP.NO:29618 OF 2014)

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondent No.1 and 2 and their officials and staff to stop the illegal construction of 3rd respondent in and over the premises No 6-3-832/C/1/1, No.6-3-832/3, No.6-3-832/3/1, No.6-3-832/3/2, and No.6-3-832/1/1 situated at Ameerpet, Hyderabad pending disposal of the writ petition.

**Counsel for the Petitioner : Ms. M.HARTHIKA, COUNSEL REPRESENTING
SRI G.THIRUPATHI REDDY**

**Counsel for the Respondent Nos.1 & 2 : SRI MIDDE ARUN KUMAR (SC FOR
GHMC)**

Counsel for the Respondent No.3 : SYED TOUSIF BASHA

W.P.NO: 11507 OF 2015

Between:

Smt. Vijaya Devi Kothari,, W/o. Sampath Raj Jain, Aged 65 years, Occupation Housewife, R/o 6-3-832 and 6-3-832/3, Ameerpet, Hyderabad - 500016.

.....PETITIONER

AND

1. The State of Telangana Rep by its Principal Secretary Municipal Administration, Secretariat, Hyderabad.
2. Greater Hyderabad Municipal Corporation, Represented by its Dy. Commissioner Circle-10, Hyderabad.
3. Rajkumar Goud, S/o Lingamaiah Goud, Aged major, occupation Business R/o 6-3-832/4, Ameerpet, Hyderabad - 500016.
4. Smt. Aruna, W/o Rajkumar Goud, Aged major, occupation housewife R/o 6-3-832/4, Ameerpet, Hyderabad - 500016.

.....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, order or direction more particularly more in the nature of Writ of Mandamus to declaring the inaction of the Respondent No. 2 herein in considering the application dt-27.02.2015 for minor deviations as illegal, arbitrary,

against the provisions of GHMC Act, circulars and settled principles of law and consequently direct the respondents No.2 herein to consider the same and pass appropriate orders in accordance with law.

I.A.NO:1 OF 2015 (WPMP.NO:15213 OF 2015)

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents not to interfere with the possession, enjoyment and construction over the premises No's 6-3-832/3, 6-3-832/3/2, 6-3-832/3/1, 63-832/1/1, totally admeasuring 511 sq. yards., situated at Ameerpet, Hyderabad, pending disposal of the main writ petition.

Counsel for the Petitioner : SRI AKKAM ESHWAR

Counsel for the Respondent No.1 : GP FOR MCPL ADMN AND URBAN DEVELOPMENT

Counsel for the Respondent No.2 : SRI M.ARUN KUMAR (SC FOR GHMC)

Counsel for the Respondent Nos.3 & 4 : Ms M.HARTHIKA

The Court made the following COMMON ORDER

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY
WRIT PETITION Nos.23644 of 2014 and 11507 of 2015

COMMON ORDER:

W.P.No.23644 of 2014 is filed seeking following relief:

"To declare the inaction of respondent No. 1 and 2 in not taking the action against the illegal constructions of the 3rd respondent herein in and over the premises No.6-3-832/C/1/1, 6-3-832/3, 6-3-832/3/1 6-3-832/3/2, 6-3-832/1/1, ameerpeta, Hyderabad in spite of the representation dated 05.08.2014, as illegal and arbitrary."

W.P.No.11507 of 2015 is filed seeking following relief:

"To declare the inaction of respondent No. 1 herein in considering the application dated 27.02.2015 for minor deviations, as illegal and arbitrary."

2. Since the issue raised in both the writ petitions is interconnected, both the writ petitions are heard together and are disposed of by way of this common order.

3. Heard Ms. Harthika, learned counsel representing Mr. G. Thirupathi Reddy, learned counsel for the petitioner in W.P.No.23644 of 2014 and respondent Nos 3 and 4 in W.P.No.11507 of 2015, Sri Akkam Eshwar, learned counsel for the petitioner in W.P.No.11507 of 2015, Sri Syed Tousif Basha, learned counsel for respondent No.3 in W.P.No. 23644 of 2014 and Sri M. Arun Kumar, learned Standing counsel for GHMC in both the writ petitions.

4. W.P.No.11507 of 2015 is taken up as lead case in so far as as facts are concerned.
5. Brief facts of the case as averred in the writ affidavit are that petitioner is the absolute owner and possessor of properties bearing municipal Nos.6-3-832/3, 6-3-832/3/2, 6-3-832/3/1, 6-3-832/1/1, total admeasuring 511 square yards, situated at Ameerpet, Hyderabad, having acquired the same through registered sale deeds bearing document Nos.6 of 1978, 1110 of 2002 dated 18.06.2002, 2357 of 2002 dated 21.11.2002 and 1430 of 2002 dated 30.07.2002, that the name of the petitioner was mutated in the revenue records and he has been paying water bills, electricity bills, property tax, etc., that has obtained municipal permission for construction of stilt+4 upper floors for residential use under municipal sanction plan *vide* permit No.17037/HO/C2/C-10/2012 dated 20.11.2012 and completed construction as per the sanctioned plan.
6. It is further averred that respondent Nos.3 and 4, who are members of the same locality have filed a writ petition *vide* W.P.No.23644 of 2014; alleging that petitioner has made construction without obtaining permission. While the matter stood thus, at the instance of respondent Nos.3 and 4, respondent No.2 has issued impugned notice dated 10.02.2015 under Sections 452 (1) and 461 (1) of the GHMC Act, 1955,

stating that there are deviations from approved plan; that petitioner has given reply to the said show cause notice, stating that the overall deviations of the building amounts to 0.37% which is within the limit of total structure; and that petitioner submitted an application dated 27.02.2015 for regularization and penalization of minor deviations under Section 455 AA of the GHMC Act *vide* application No.9439/27/02/2015/CZ, and the same is pending with the respondent corporation. Aggrieved by the same, present writ petition is filed.

7. Learned counsel for the petitioner further submitted that there are certain disputes between the petitioner and respondent Nos.3 and 4 and in fact criminal cases were also filed by the petitioner against respondent Nos.3 and 4. Though, the petitioner constructed the building in accordance with the sanctioned plan, respondent Nos.3 and 4 are trying to influence respondent No.2 to take action against the construction raised by the petitioner.

8. Learned counsel for respondent Nos.3 and 4 would submit that respondent No.4 is the owner of house bearing No. 6-3-832/1/2, Amcerpet, Hyderabad, having acquired the same through registered sale deed bearing document No 1418 of 1998 dated 21.09.1998. Petitioner is the owner of house bearing municipal Nos.6-3-832/3, 6-3-832/3/2, 6-3-832/3/1, 6-3-

832/1/1; that petitioner has undertaken construction of new building by demolishing old house bearing No.6-3-832/3 without obtaining any permission. Therefore, respondent No.3 has submitted representation dated 05.08.2014 to respondent No.2 as well as Commissioner, GHMC, to take action against the unauthorized construction of petitioner; that the respondent officials visited the subject property and found that the construction made by the petitioner is illegal and stopped the said construction for one day only and from the next day onwards, petitioner started constructing the said building, but respondent corporation is not taking any action. Aggrieved by the same, respondent No.4 filed W.P.No.23644 of 2014.

9. Learned counsel for respondent Nos.3 and 4, further submitted that respondent corporation is not taking any action against the illegal construction made by the petitioner. He further submitted that writ petition filed by the petitioner is devoid of any merits and the same is liable to be dismissed and prayed to pass appropriate orders in W.P.No.23644 of 2014.

10. Learned Standing counsel for respondent No.2 /GHMC, by referring to the counter would submit that petitioner has obtained permission for construction of stilt + four upper floors vide permit No.17037/HO/C2/Cir-10/2012 dated 20.11.2012, and on inspection, respondent corporation has found that

certain setbacks have not been followed and construction has been made with deviations. Therefore, respondent corporation issued show cause notice dated 10.02.2015 under Section 452 (1) and 461 (1) of the GHMC Act, 1955, but no reply has been issued by the petitioner and as per records, no application has been filed for regularization.

11. Perusal of material placed on record would disclose that petitioner had submitted an application dated 27.02.2015 under Section 455 AA of GHMC Act, for regularization of deviations and the same is pending for consideration with respondent corporation. Further, a reply dated 07.04.2015 was submitted by the petitioner in response to the show cause notice dated 10.02.2015, therefore, the statements made in the counter on behalf of GHMC is factually incorrect.

12. In the light of the above facts and circumstance, writ petitions are disposed of, with a direction to respondent corporation to consider the application dated 27.02.2015 submitted by the petitioner for regularization of deviations, by duly issuing notice to the petitioner and also affording an opportunity of hearing and pass appropriate orders, strictly in accordance with the provisions of GHMC Act and Rules made there under and communicate the same to the petitioner and take further action if necessary. Respondent No.2 as well as

Commissioner of GHMC shall complete the entire exercise within a period of three (03) months from the date of receipt of copy of this order. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

Sd/-L.VIJAYA LAKSHMI
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The Commissioner, Greater Hyderabad Municipal Corporation, Near Tank Bund, Hyderabad.
2. The Principal Secretary, Municipal Administration, Secretariat, State of Telangana at Hyderabad.
3. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Circle-10, Hyderabad.
4. Two CCs to GP FOR MCPL ADMN AND URBAN DEVELOPMENT, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to Ms. M.HARTHIKA, Advocate [OPUC]
6. One CC to SRI M.ARUN KUMAR (SC FOR GHMC), Advocate [OPUC]
7. One CC to SRI AKKAM ESHWAR, Advocate [OPUC]
8. One CC to SYED TOUSIF BASHA, Advocate [OPUC]
9. Two CD Copies

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HIGH COURT

DATED:30/10/2025



COMMON ORDER

**WP.Nos.23644 OF 2014
AND 11507 of 2015**

**DISPOSING OF THE BOTH
WRIT PETITIONS WITHOUT COSTS.**

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