

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

**AT: HYDERABAD**

**CORAM:**

**\*THE HON'BLE SRI JUSTICE K. LAKSHMAN**

**+ WRIT PETITION No.2879 OF 2020**

**% Delivered on: 25-11-2021**

**Between:**

# Sri Mohammed Jahangir & another .. Petitioners

Vs.

\$ The Greater Hyderabad Municipal Corporation (GHMC)  
Rep.by its Commissioner, Hyderabad & others .. Respondents

! For Petitioners : Mr. Katika Ravinder Reddy,  
Lr. Counsel rep. Mr.Nikhil Khadkikar

^ For Respondent Nos.1 to 3 : Mr. Sampath Prabhakar Reddy  
Lr. Standing Counsel for GHMC  
For Respondent No.4 : Lr. Govt. Pleader for MA & UD

For Respondent No.5 : Mr. Srinivas Chitturu.

< Gist :

> Head Note :

? Cases Referred :

1. AIR 1959 SC 308
2. Common Order, dated 24.01.2020 in C.C. Nos.815 & 822 of 2019.

**HON'BLE SRI JUSTICE K. LAKSHMAN****WRIT PETITION No.2879 OF 2020****ORDER:**

Heard Mr. Katika Ravinder Reddy, learned counsel representing Mr. Nikhil Khadkikar, learned counsel for the petitioners, learned Government Pleader for MA & UD appearing on behalf of respondent No.4, Nr. Sampath Prabhakar Reddy, leamed Standing Counsel for GHMC appearing on behalf of respondent Nos. I to 3 and Mr. Srinivas Chitturu, learned counsel for respondent No.5.

2. This Writ Petition is filed to quash the proceedings dated 23.12.2019 cancelling the LRS and Building Permit of the petitioners and to direct the official respondents not to interfere with the construction of petitioners on Plot Nos.226 and 227, admeasuring 335 square yards in Survey No.179 of Maruthi Nagar, Saheb Nagar Kalan, Ranga Reddy District, as per the building permit dated 05.10.2017.

3. Petitioner No.1 claims that he is the absolute owner and possessor of Plot No.226 (South Part) and Plot No.227 (North Part) admeasuring 35 and 110 square yards respectively making a total extent of 145 square yards in Survey No.179, situated at Sahebnagar Kalan Revenue Village under Ward No.5, Block No.2 of L.B. Nagar Circle No.3 of GHMC, Hayath Nagar Revenue Mandal, Ranga Reddy District under a registered sale deed bearing document No.11599 of 2016, dated 16.05.2016. Petitioner No.2 is the absolute owner of Plot No.227 (South

Part) admeasuring 190 square yards in the very same survey number under a registered sale deed bearing document No.11600 of 2016, dated 15.05.2016. Thereafter, they have obtained LRS proceedings dated 27.03.2017 and building permit dated 05.10.2017.

4. Respondent No.5 association has filed a Public Interest Litigation (PIL) vide W.P. (PIL) No.191 of 2018 complaining that the reserved public utility area space as per the Gram Panchayath Layout was converted into plots by encroaching the layout open space, designed the false plot numbers and executed the sale deeds. Basing on the said sale deeds, the petitioners have also obtained building permit by suppressing and misrepresenting the facts.

5. In view of the above, the GHMC Authorities have issued a show-cause notice dated 04.08.2018 under Section - 450 of the GHMC Act, 1955 to the petitioners as to why the building permit and the LRs proceedings cannot be revoked on the ground of suppression and misrepresentation of facts. Accordingly, the petitioners have submitted their explanations dated 06.08.2018 and 09.08.2018. They have also requested for personal hearing.

6. Respondent No.1 had conducted hearing and on examination of the explanations and documents, cancelled the above said proceedings. Feeling aggrieved by the same, the petitioners herein have filed a writ petition vide W.P. No.1248 of 2019, and this Court disposed of the said writ petition vide order dated 25.01.2019 holding that the impugned

order is a cryptic order. Paragraph Nos.1 and 2 relate to previous history, in brief, particularly the direction of this Court in PIL No.191 of 2018. The allegation against the petitioners is that they had constructed the house in the area earmarked as open space. Further, there is no reference with regard to the explanation submitted by the petitioners. The order impugned does not inspire confidence that respondent No.1 therein had dealt with the matter in accordance with law. Therefore, by reproducing the relevant portion of the impugned order, this Court set aside the impugned order therein, remanded the matter back to respondent No.1 with a direction to pass appropriate reasoned order in accordance with law after affording opportunity of hearing to the petitioners:

7. Thereafter, in compliance of the said order dated 25.01.2019 in W.P. No.1248 of 2019, respondent No.1 had conducted hearing and passed the orders dated 23/24.12.2019 cancelling both LRS proceedings dated 27.03.2017 and the building permit dated 05:10.2017 issued in favour of the petitioners herein. Challenging the same, the petitioners filed the present writ petition raising various grounds including the ground that the Commissioner of GHMC conducted hearing and on his transfer, his successor has passed the impugned order. Hearing by one Authority and passing orders by another Authority is impermissible. The petitioners herein have also raised several other grounds.

8. With the above said contentions, the learned counsel for the petitioners sought to set aside the impugned order.

9. In the impugned order dated 23/24.12.2019 passed by respondent No.1, there is specific mention about filing of PIL No.191 of 2018, issuance of show-cause notice, submission of explanations and passing of orders by this Court in W.P. No.1248 of 2019. It is also mentioned that in compliance of the said order, respondent No.1 has proposed hearing on 16.03.2019 and subsequently the same was postponed to 20-04.2019. During the course of hearing, the then Commissioner heard the petitioners and examined the explanations submitted by them and scrutinized their case. Another hearing was conducted on 15.06.2019 with due intimation to the petitioners and also instructed them to call the Colony Association to attend the hearing with their claims and objections.

10. In the impugned order, it is also further mentioned that hearing was conducted in the Chamber of the then Commissioner, GHMC on 15.06.2019, and during the course of hearing, the then Commissioner has considered the explanations and the documents submitted by the parties, and in the said documents, it is clearly mentioned as 'Temple& Park' towards eastern side. Hence, the decision taken by the then Commissioner vide proceedings dated 29.12.2018 holds good and once again it is informed the petitioners that the LRS proceedings dated 27.03.2017 and the building permit dated 05.10.2017 were cancelled.

11. The above said facts would reveal that one Commissioner of GHMC had conducted hearing and on his transfer, his successor had passed the impugned order. Hearing by one Authority and deciding the

matter or passing the order by another authority is impermissible. The said principle has also held by the Hon'ble Supreme Court in **Gullapalli Nageswara Rao. V. Andhra Pradesh State Road Transport Corporation**<sup>1</sup> and this Court in **G. Laxmi v. Sri Somesh Kumar, IAS**<sup>2</sup>.

12. In view of the above said principle and the discussion, the impugned order dated 23/24.12.2019 is set aside on the said ground itself without going into merits and demerits of the case and also the rival contentions of the parties. The matter is remanded back to respondent No.1 with a direction to pass orders afresh by putting the petitioners and respondent No.5 on notice and by affording them an opportunity of hearing. Respondent No.1 shall complete the said exercise within one (01) month from the date of receipt of a copy of this order and communicate the said order to the petitioners and respondent No.5. However, it is contended by the GHMC and respondent No.5 that in the sale deeds dated 12.08.1982, there is specific mention about the temple and park towards eastern side. In view of the same, the petitioners are directed not to proceed with construction pursuant to the building permit dated 05.10.2017 till passing of orders by respondent No.1 as indicated above.

13. The present writ petition is accordingly disposed of. The interim order granted by this Court and extended the same from time to

---

<sup>1</sup>. AIR 1959 SC 308

<sup>2</sup>. Common Order dated 24.01.2020 in C.C. Nos.815 & 822 of 2019

time stands vacated. In the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the writ petition shall stand closed.

**25<sup>th</sup> November, 2021**

**Note:** L.R.copy to be marked.

(B/O.) Mgr

---

**K. LAKSHMAN, J**