

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

MONDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO

WRIT PETITION NOS: 38256 OF 2022 AND 28407 OF 2023

W.P.NO: 38256 OF 2022

Between:

Syed Baquer Hussain, S/o Syed Hajee Hussain aged about 80 yrs, Occ. NIL,
R/o H.No. 10-2-347/3B Asif Nagar, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, through its Principal Secretary, Municipal Administration, having office at T.S. Secretariat, Hyderabad.
2. The Greater Hyderabad Municipal Corporation, rep. by its Commissioner, having office at Tank Bund, Hyderabad.
3. The Zonal Commissioner, Central Zone, GHMC, Hyderabad

...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 pass an order, direction or a writ particularly in the nature of Writ of Mandamus declaring that the action on part of the respondents in demolishing the roof over common passage and attached staircase on the southern side of the petitioners house bearing M.C. No10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, is highly illegal, arbitrary, in violation of the GHMC Act and unconstitutional. Consequently, this Hon'ble Court may be pleased to direct the respondents to reconstruct the roof over common passage and attached staircase on the southern side of petitioners house bearing M.C. no. 10-2- 347/B/51/A/A, situated at Asif Nagar, Hyderabad as per the plan and compensate the petitioner for causing mental agony and violation of statutory laws and constitutional rights and financial loss to a tune of Rs 10,00,000/- (Rupees ten lakhs).

IA NO: 1 OF 2022

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 pass an interim direction thereby directing the respondents to reconstruct the roof over common passage and attached staircase on the southern side of petitioner's house bearing M.C. No. 10-2-347/8/51/A/A, situated at Asif Nagar, Hyderabad, as per the plan immediately and forthwith.

Counsel for the Petitioner: SRI MOHAMMAD ADNAN
Counsel for the Respondent No.1: GP FOR MCPL ADMN & URBAN DEV
Counsel for the Respondent Nos.2 & 3: SRI K.SIDDHARTH RAO, SC FOR
GHMC

W.P.NO: 28407 OF 2023

Between:

Syed Baquer Hussain, S/o Syed Hajee Hussain aged about 80 yrs, Occ NIL,
R/o H.No. 10-2-347/3B Asif Nagar, Hyderabad

...PETITIONER

AND

1. The State of Telangana, through its Principal Secretary, Municipal Administration, having office at T.S. Secretariat, Hyderabad
2. The Telangana Human Rights Commission, Rep. by its Secretary, having office at Gruha Kalpa, Nampally, Hyderabad
3. The Greater Hyderabad Municipal Corporation, rep. by its Commissioner, having office at Tank Bund, Hyderabad
4. The Zonal Commissioner, Central Zone, ghmc, Hyderabad.
5. Mohd Abdul Muqeeth, S/o Late M.A. Qadeer, R/o H.no. 10-2-347/B/51/A/1, FG Nagar, Asif nagar, Hyderabad.

...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 pass an order, direction or a writ particularly in the nature of Writ of Mandamus declaring that the action of the Human Rights Commission, in giving demolition orders to the respondents NO. 2 and 4, to demolish the stair case and roof belonging to the petitioner on the southern side of his house bearing M.C. no. 10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, vide proceedings in HRC No. 260 of 2020, finally disposed off on 18th August 2022, is highly illegal, arbitrary and beyond the jurisdiction and scope of Protection of Human Rights Act. Consequently, this Honourable Court may be pleased to direct the respondents to

compensate the petitioner for causing mental agony and violation of statutory laws and constitutional rights and financial loss to a tune of Rs 10,00,000/- (Rupees ten lakhs).

IA NO: 1 OF 2023

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 pass an interim direction thereby directing the respondents not to interfere with the reconstruction of the staircase and roof over common passage on the southern side of petitioners house bearing M.C. No. 10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, as per the plan immediately and forthwith.

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 expedite the hearing in the present writ petition for an early disposal, in the interest of justice.

Counsel for the Petitioner: SRI MOHAMMAD ADNAN

Counsel for the Respondent No.1: GP FOR MCPL ADMN & URBAN DEV

Counsel for the Respondent No.2: SRI A.SAMIR KUMAR, SC FOR TSHRC

**Counsel for the Respondent Nos.3 & 4: SRI K.SIDDHARTH RAO, SC FOR
GHMC**

Counsel for the Respondent No.5: SRI K.GIRIDHAR RAJU

The Court made the following: COMMON ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND**

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION Nos.38256 of 2022 and 28407 of 2023

COMMON ORDER: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

W.P.No.38256 of 2022 is filed for the following relief:

“That this Hon'ble Court may be pleased to pass an order, direction or a writ particularly in the nature of Writ of Mandamus declaring that the action on part of the respondents in demolishing the roof over common passage and attached staircase on the southern side of the petitioner's house bearing M.C.No. 10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, is highly illegal, arbitrary, in violation of the GHMC Act and unconstitutional. Consequently, this Hon'ble Court may be pleased to direct the respondents to reconstruct the roof over common passage and attached staircase on the southern side of the petitioner's house bearing M.C.No. 10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad as per the plan and compensate the petitioner for causing mental agony and violation of statutory laws and constitutional rights and financial loss to a tune of Rs. 10,00,000/- (Rupees ten lakhs) and pass any other order or orders as deemed fit and proper in the circumstance of the case in the interest of justice.”

W.P.No.28407 of 2023 is filed for the following relief:

“That this Hon'ble Court may be pleased to pass an order, direction or a writ particularly in the nature of Writ of Mandamus declaring that the action of the Human Rights Commission, in giving demolition orders to the respondents No.2 and 4, to demolish the stair case and roof belonging to the petitioner on the southern side of his house bearing

M.C.No. 10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, vide proceedings in HRC No.260 of 2020, finally disposed off on 18th August 2022, is highly illegal, arbitrary and beyond the jurisdiction and scope of Protection of Human Rights Act. Consequently, this Hon'ble Court may be pleased to direct the respondents to compensate the petitioner for causing mental agony and violation of statutory laws and constitutional rights and financial loss to a tune of Rs. 10,00,000/- (Rupees ten lakhs) and pass any other order or orders as deemed fit and proper in the circumstance of the case in the interest of justice."

2. For the sake of convenience, the parties shall be referred to in this order as per their ranking in Writ Petition No.28407 of 2023.

3. Brief facts of the case:

3.1. The petitioner is claiming that he is owner of house bearing Door No.10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad. Abutting to the said property on its south side, there was a house belonging to his daughter and she sold the same to one Mr.Abdul Muqeeth-respondent No.5 and Mohammed Abdul Moyeed through registered sale deed in the year 2008. On the southern side of the petitioner's house, there is a staircase with a roof connecting the entrance and the said staircase exclusively meant for egress and ingress to his

property. In the year 2010, he got regularization *vide* proceedings No.4870/C7/CZ/2008, dated 05.07.2010, including the roof and staircase. He further averred that respondent No.5 filed Writ Petition No.25550 of 2011 against the petitioner and Greater Hyderabad Municipal Corporation (GHMC) to consider his representation for demolition to staircase and ramp connecting to the entrance of the petitioner's house and the same was dismissed on 10.07.2012. Again respondent No.5 filed Writ Petition No.40246 of 2012 for not taking action pursuant to the Notice No.279/TPS/C7/W10/2012 dated 20.11.2012 and the said Writ Petition was disposed of with a direction to the respondent Corporation to take appropriate steps in accordance with law, in case any illegal construction over the third floor of the petitioner's property. Aggrieved by the order dated 10.07.2012 in Writ Petition No.25550 of 2011, respondent No.5 filed Writ Appeal No.1020 of 2012 and the same was dismissed on 02.07.2013 recording the regularization in respect of the subject property.

3.2. The petitioner further averred that the respondent Corporation without giving any notice and without following due process of law cancelled the regularization proceedings issued

on 05.07.2010 through order dated 14.05.2013 on the ground that the petitioner obtained permission under Building Penalisation Scheme (BPS). Thereafter, the petitioner applied for regularization of building as well as staircase with a roof over the common passage under G.O.Ms.No.152 dated 02.11.2015. When the said application is pending, the respondent Corporation in the year 2018 without issuing any notice demolished the staircase and roof over the common passage. When the petitioner questioned the same before the Zonal Commissioner, GHMC, who noticed gross irregularities by his subordinates in demolishing the staircase/ramp and then ordered reconstruction of the same on 12.12.2019 and the same was reconstructed by the respondent Corporation. He further stated that in the month of January, 2022, the respondent Corporation under the influence of his neighbours once again demolished the staircase and roof leading to his house. Questioning the same, the petitioner filed Writ Petition No.38256 of 2022 directing the respondent Corporation to reconstruct the roof over common passage and attached staircase on the southern side of his house and also claiming compensation of an amount of Rs.10,00,000/-.

3.3. When the said Writ Petition No.38256 of 2022 is pending, the petitioner filed another Writ Petition No.28407 of 2023 questioning the order passed by respondent No.2 – Human Rights Commission on 18.08.2022 in H.R.C.No.260 of 2020 including demolishing the staircase and roof belonging to the petitioner on the complaint lodged by respondent No.5 and also prayed for compensation of an amount of Rs.10,00,000/-.

3.4. Respondent Nos.3 and 4 filed counter affidavit denying the allegations made by the petitioner *inter alia* contending that the petitioner has made an application under Building Penalization Scheme for regularization of his construction of ground + 3 upper floors *vide* Application No.BPS/4870/C7/CZ/2008 and the same was regularized *vide* Proceedings No.4870/C7/CZ/2008 dated 05.07.2010. Subsequently, respondent No.5 filed Writ Petition No.25550 of 2011 with a prayer to direct the respondent Corporation to take action on the illegal construction of ramp made over the common passage and the said writ petition was dismissed on 10.07.2012. Later, respondent No.5 had lodged a complaint on 03.09.2012 to the respondent Corporation stating that the petitioner has regularized his premises for ground + 3 floors by playing fraud and in fact the

existing structure as on site is only ground + 2 upper floors. The Building Penalization Scheme has issued at that point of time only for penalizing any unauthorized construction which were present on site at the time of announcement of the Scheme in and around 2008. In fact, the petitioner had applied under Building Penalization Scheme for regularization of ground + 3 floors, which never existed at the time of submission of application, is considered to be misrepresentation of fact and hence liable to be rejected.

3.5. Pursuant to the above said complaint, the respondent Corporation has issued a notice *vide* No.279/TPS/C7/W10/2012 dated 06.09.2012 directing the petitioner to submit reply within (7) days from the date of receipt of the notice or else action will be taken. Accordingly, the petitioner has submitted reply on 12.09.2012. The respondent Corporation after due verification of the records and property come to a conclusion that the petitioner has got regularized the property by playing fraud and misleading the respondent Corporation that there is existing 3rd floor, whereas the existing structure was ground + 2 floors. Hence, the proceedings under Building Penalization Scheme dated 05.07.2010 was cancelled and the respondent

Corporation has issued proceedings *vide* Proc.No.BPS/4870/C7/CZ/2008-13 dated 14.05.2013. The petitioner has not challenged or appealed against the said cancellation order. It is further averred that the petitioner again applied under the new Building Regularisation Scheme, 2015 on 27.11.2015 for regularization of his construction consisting of ground + 3 upper floors along with additional ramps constructed over the common passage.

3.6. In the meanwhile, respondent No.5 filed Writ Petition No.40246 of 2012 and the same was disposed of on 06.02.2017 directing the respondent Corporation to make an enquiry whether or not construction is in existence in the 3rd floor and whether respondent No.4 therein has obtained regularization orders without there being any existing structure as alleged by the petitioner and take appropriate steps in accordance with law. Pursuant to the said order, the respondent Corporation had investigated the site and as there was no regularization done, the respondent Corporation had issued speaking order under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (hereinafter referred to as 'the HMC Act') *vide* Lr.No.4870/TPS/C7/CZ/GHMC/2017 dated 10.08.2017 directing the

petitioner to vacate the illegal construction of ground + 3 upper floors within 24 hours. Again the respondent Corporation has issued notice under Section 636 of the HMC Act on 08.08.2018. But, the petitioner did not comply with the speaking order dated 10.08.2017 and 08.08.2018. The respondent Corporation has not taken any further action in respect of the premises, as the application under the Building Regularisation Scheme has not been disposed of. However, the ramp constructed over the common passage cannot be regularized and the same is illegal even considering the pendency of the application. The respondent Corporation had issued a letter dated 05.01.2019 to the police officials seeking protection for the demolition of ramp portion and the roof laid over the common passage and after following the due procedure, the respondent Corporation demolished the ramps constructed illegally.

3.7. It is further averred that the petitioner reconstructed the RCC slab in common passage on the 1st floor which was demolished earlier. Aggrieved by that, respondent No.5 approached respondent No.2 and filed complaint *vide* No.260 of 2020 on 24.01.2020 and the same was considered by respondent No.2 and thereby called for a report from respondent

No.3. Respondent No.3 filed report on 19.11.2020 assuring that it would take further course of action and file compliance report. In this regard, the Town Planning Staff of Circle No.12, Mehdipatnam, had demolished the illegal construction of RCC slab laid on the common passage on the 1st floor in the premises bearing No.10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, on 01.04.2021. It is further stated that the entire construction made by the petitioner is without any prior permission or sanction and the ramps/ construction made over the common passage are illegal and in violation of the Building Rules, 2012. The application under Building Penalisation Scheme was revoked by proceedings dated 14.05.2013.

3.8. Respondent No.5 filed counter-affidavit, wherein it is stated that the petitioner has played fraud and obtained regularization proceedings for a non-existing structure. The petitioner has not challenged the cancellation of Building Penalisation Scheme dated 14.05.2013 and the same has become final. The petitioner filed O.S.No.2376 of 2012 against the GHMC and obtained interim injunction in I.A.No.737 of 2012. Pursuant to the said interim orders, the petitioner has

completed the construction of the 3rd floor and subsequently the said suit was dismissed on 18.04.2016. The petitioner has deliberately suppressed the said fact in the writ petition. It is further stated that pursuant to the orders dated 06.02.2017 passed in Writ Petition No.40246 of 2012, the Deputy Commissioner, GHMC, Circle-12, issued notice dated 10.08.2017 and subsequently issued final notice under Section 636 of the HMC Act on 08.08.2018 and the respondent Corporation after following the due process of law removed the structure on common passage on 09.01.2019 and 11.01.2019. Thereafter, the petitioner once again reconstructed a part of the earlier demolished portion illegally with the connivance of the GHMC authorities on 12.12.2019. At that stage, respondent No.5 filed complaint before respondent No.2, *vide* H.R.C.No.260 of 2020, wherein the Commissioner, GHMC, filed a report on 19.11.2020 and additional report on 07.04.2022 stating that the respondent Corporation removed reconstructed portion of the roof on the common passage on 01.04.2021. Pursuant to the said report, respondent No.2 disposed of the said H.R.C. on 18.08.2022. The petitioner approached this Court and filed the

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Writ Petitions by suppressing several material facts and the same is liable to be dismissed with exemplary costs.

4. Heard Mr. Mohd. Adnan, learned counsel for the petitioner, Mr. K. Siddharth Rao, learned Standing Counsel for GHMC appearing for respondent Nos.3 and 4 in Writ Petition No.28407 of 2023 and respondent Nos.2 and 3 in Writ Petition No.38256 of 2022 and Mr. K. Giridhar Raju, learned counsel for respondent No.5 in Writ Petition No.28407 of 2023. No representation on behalf of respondent Nos.1 and 2 in Writ Petition No.28407 of 2023 and respondent No.1 in Writ Petition No.38256 of 2022.

5. Submissions of learned counsel for the petitioner:

5.1. Learned counsel for the petitioner vehemently contended that respondent Nos.3 and 4 without issuing any notice and without following due process of law demolished the roof over the common passage and attached staircase. He further contended that pursuant to the orders of respondent No.2 dated 18.08.2022 only demolished the structures of the petitioner by respondent Nos.3 and 4, especially respondent No.2 is not having jurisdiction to entertain the complaint of respondent No.5 and pass orders. The action of the respondents is in gross

violation of the principles of natural justice and offend Article 300-A of the Constitution of India. Hence, the petitioner is entitled for reconstruction of roof over common passage and attached stair case on the southern side of the petitioner's house and also entitled for compensation of an amount of Rs.10,00,000/- in each Writ Petition. However, the petitioner is restricting the claim at Rs.10,00,000/- in both the Writ Petitions. In support of his contention, he relied upon the order passed by the Division Bench of this Court in Writ Petition No.38247 of 2022 dated 14.08.2023.

6. Submissions of learned Standing Counsel for GHMC:

6.1. Per contra, learned standing counsel contended that the petitioner has constructed the building without sanction/ approved plan. The petitioner had made an application in the year 2008 under Building Punalisation Scheme for regularization of construction of ground + 3 floors and the same was regularized through proceedings dated 05.07.2010. The petitioner unauthorisedly constructed the ramp over the common passage. Respondent No.5 lodged a complaint on 03.09.2012 to the respondent Corporation questioning the said regularization proceedings dated 05.07.2010 issued in favour of

the petitioner on the ground that as on the date of regularization proceedings, the petitioner has constructed only ground + 2 floors and the 3rd floor is not in existence as on the date of submission of regularization application and he obtained the said proceedings by playing fraud. The respondent Corporation issued notice on 06.09.2012 and the petitioner has submitted a reply dated 12.09.2012. The respondent Corporation after due verification and after conducting enquiry cancelled the regularization proceedings dated 05.07.2010 by its order dated 14.05.2013 and the said order has become final.

6.2. He further contended that pursuant to the orders dated 06.02.2017 passed in Writ Petition No.40246 of 2012, the respondent Corporation after following the due procedure passed speaking orders on 10.08.2017 and 08.08.2018 under Section 636 of the HMC Act and removed the ramps constructed by the petitioner illegally on common passage on 09.01.2019. Thereafter, the petitioner reconstructed RCC slab in the common passage and the same was removed and the petitioner is not entitled any relief.

7. Learned counsel for respondent No.5 also reiterated the very same submissions made by the learned Standing Counsel and in addition he submitted that the petitioner suppressed several facts including filing of suit in O.S.No.2376 of 2012 and approached this Court with unclean hands and he is not entitled the equity relief.

Analysis:

8. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the petitioner has made construction of building including ramp over the common passage in the premises bearing Door No.10-2-347/B/51/A/A, situated at Asif Nagar, Hyderabad, in the absence of any sanction approved plan. However, the petitioner had submitted application under Building Penalisation Scheme for regularization of his construction of ground + 3 upper floors, *vide* application No.BPS/4870/C7/CZ/2008 and the same was regularized through proceedings dated 05.07.2010. While things stood thus, respondent No.5 filed Writ Petition No.25550 of 2011 seeking direction to the respondent Corporation to take action on the illegal construction of ramp made over the common passage and

the said Writ Petition was dismissed on 10.07.2012 on the ground that the construction made by the petitioner was regularized through proceedings dated 05.07.2010. It appears from the record that respondent No.5 lodged a complaint dated 03.09.2012 to the respondent Corporation stating that the petitioner had got regularization proceedings by playing fraud and in fact the existing structure on the site as on the date of application is ground + 2 upper floors only, whereas the petitioner has made application under Building Penalisation Scheme for regularization of building i.e., construction of ground + 3 upper floors which is never existing, and requested the respondent Corporation to take appropriate steps. Pursuant to the same, the respondent Corporation after issuing notice and after considering the explanation of the petitioner passed order on 14.05.2013 cancelling the regularization proceedings dated 05.07.2010 issued in favour of the petitioner. It further appears from the record that the petitioner has not questioned the said cancellation/revocation proceedings and the same has become final.

9. It is pertinent to mention here that the petitioner filed suit in O.S.No.2376 of 2012 against the GHMC authorities and

obtained interim injunction order in I.A.No.737 of 2012 and the said suit was dismissed on 18.04.2016. The factum of filing of the said suit has not been stated in both the Writ Petitions. The specific claim of respondent No.5 is that after obtaining *ex parte* ad-interim injunction in O.S.No.2376 of 2012, the petitioner has made construction of the 3rd floor and the same was not denied by the petitioner.

10. It further reveals from the record that the petitioner has made an application under the new Building Regularisation Scheme of 2015 dated 27.01.2015 for regularization of his construction consisting of ground + 3 upper floors along with additional ramps constructed over the common passage. In the meanwhile, respondent No.5 filed Writ Petition No.40246 of 2012 questioning the action of the respondent authorities therein in not taking any consequential action in furtherance of notice dated 20.11.2012 under HMC Act and not taking any steps to restrain the respondent No.4 from making further construction and also not considering the representation dated 30.09.2012 and the said Writ Petition was disposed of on 06.02.2017 and the operative portion of the order is extracted hereunder:

“Considering the facts and circumstances of the case, the petitioner is directed to give a detailed representation to the concerned authorities of respondent-Corporation and on such representation, the authorities of respondent-Corporation is directed to make an enquiry whether or not construction is in existence in the third floor and whether the 4th respondent has obtained regularization orders without there being any existing structures as alleged by the petitioner and take appropriate steps in accordance with law.

The writ petition is disposed of accordingly. No costs.”

11. Pursuant to the above said order, the respondent Corporation issued notice on 10.08.2017 directing the petitioner to vacate/remove the illegal construction of ground + 3 upper floors. Thereafter, the respondent Corporation had issued notice under Section 636 of the HMC Act on 08.08.2018 and thereafter demolished the ramps constructed by the petitioner on 09.01.2019. Thereafter, the petitioner had reconstructed RCC slab in the common passage, which was demolished by the respondent Corporation earlier. Respondent No.5 filed application before respondent No.2, *vide* H.R.C.No.260 of 2020, wherein the respondent Corporation filed report on 24.01.2020 and 19.11.2020 stating that the respondent Corporation had

removed the illegal construction of RCC slab laid on the common passage, pursuant to the report of respondent No.2 and the said H.R.C. was disposed of, by its order dated 18.08.2022.

12. It is also relevant to place on record that respondent No.2 is not having authority or jurisdiction to entertain the complaint of respondent No.5 and pass orders dated 18.08.2002. However, the petitioner is not entitled the relief of seeking direction to the respondent Corporation to reconstruct the roof over the common passage and attached staircase on the southern side of the petitioner's house and claiming compensation of Rs.10,00,000/- on the ground that the petitioner had approached the Court with unclean hands and suppressed material facts as stated supra and filed the Writ Petitions invoking extraordinary jurisdiction under Article 226 of the Constitution of India.

13. It is trite law that a person invoking equity jurisdiction of this Court under Article 226 of the Constitution of India is required to approach the Court with clean hands and also by making complete disclosure. In the instant case, the petitioner approached the civil Court and filed suit in O.S.No.2376 of 2012 and the said facts were suppressed including the factum of non-

existence of the 3rd floor and submitted application and obtained regularization proceedings on 05.07.2010 for ground + 3 upper floors. Hence, the petitioner is not entitled equity relief.

14. In **Amar Singh v. Union of India and others**¹, the Hon'ble Apex Court held that litigant, who comes to Court and invokes writs jurisdiction, must come with clean hands and he cannot prevaricate and take inconsistent stands because law is not a game of chess and equitable nature of remedy must be governed by principle of uberrima fides. The Court highlighted that such suppression of material facts undermines the integrity of the judicial process, emphasizing the importance of transparency and truthfulness in all interactions with the court.

15. In **K.D. Sharma v. Steel Authority of India limited and ors.**², the Hon'ble Apex Court held the jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with

¹ (2011) 7 SCC 69

² (2008) 12 SCC 484

clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

16. The judgment of the Hon'ble Supreme Court relied on by the learned counsel for the petitioner in **G.Manikyamma v. Roudri Cooperative Housing Society Limited**³ has taken note of Section 12 of the Protection of Human Rights Act, 1993, which deals with functions and powers of the Commission. In view of the aforesaid enunciation of law, respondent No.2 is not having jurisdiction to entertain the application of respondent No.5.

17. For the foregoing reasons, the impugned order dated 18.08.2022 passed by respondent No.2 is set aside. Insofar as the other reliefs i.e., seeking reconstruction of roof over common passage and attached staircase on the southern side of the petitioner's house and compensation of Rs.10,00,000/- are concerned, ~~the~~ petitioner is not entitled for the same.

³ (2014) 15 SCC 197

::21::

18. In the result, Writ Petition No.38256 of 2022 is dismissed and Writ Petition No.28407 of 2023 is disposed of. No costs.

Miscellaneous petitions, pending if any, shall stand closed.

SD/- P. CH. NAGABHUSHAMBA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

One Fair Copy to THE CHIEF JUSTICE ALOK ARADHE
(For His Lordships Kind Perusal)

AND

One Fair Copy to the Hon'ble Sri Justice J.SREENIVAS RAO
(For His Lordships Kind Perusal)

To

1. The Principal Secretary, Municipal Administration, having office at T.S. Secretariat, Hyderabad, State of Telangana.
2. The Secretary, Telangana Human Rights Commission, having office at Gruha Kalpa, Nampally, Hyderabad
3. The Commissioner, Greater Hyderabad Municipal Corporation, having office at Tank Bund, Hyderabad
4. The Zonal Commissioner, Central Zone, GHMC, Hyderabad.
5. 11 LR Copies.
6. The Under Secretary, Union of India Ministry of Law, Justice and Company Affairs, New Delhi.
7. The Secretary, Telangana Advocates Association Library, High Court Buildings, Hyderabad.
8. One CC to SRI MOHAMMAD ADNAN, Advocate [OPUC]
9. Two CCs to GP FOR MCPL ADMN & URBAN DEV, High Court for the State of Telangana, at Hyderabad. [OUT]
10. One CC to SRI K.SIDDHARTH RAO, SC FOR GHMC [OPUC]
11. Two CD Copies

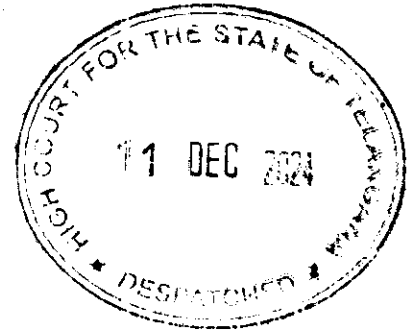
PSK
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12. One cc to Sri K. Giridhar Raju, Advocate [OPUC]
13. One cc to Sri A. Samir Kumar, SC for TSHRC [OPUC]

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HIGH COURT

DATED:28/10/2024



COMMON ORDER

WP.Nos.38256 of 2022 AND 28407 of 2023

**DISMISSING THE WP.No.38256 OF 2022 AND
DISPOSING OF THE WP.No.28407 OF 2023
WITHOUT COSTS.**

28/10/24
Sms
4/12/24