

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

**MONDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL Nos: 467 AND 1165 OF 2016

WRIT APPEAL NO: 467 OF 2016:

Writ Appeal under clause 15 of the Letters Patent against the order dt. 15-10-2014 in WP.NO.8625/2006 on the file of the High Court.

Between:

1. Station Staff Officer, Station Headquarters, Bolaram, Secunderabad.
2. The Station Commander Cum Estate Officer Andhra Sub Area Bolaram Secunderabad

(Appellant No.2 is impleaded as per C.O. dated 01.07.2024 Vide IA No.1 of 2017 WPMP No.1232 of 2017)

...APPELLANT/WRIT PETITIONER

AND

1. Smt. K. Yellamma, W/o. Late Babu per L.R. Tokatta Village Tarband, Secunderabad.
2. Smt. Gutta Laxmi, W/o. G. Gopi Agriculturist, R/o. Thokatta Village, Tarbund, Secunderabad.
3. The Station Commander-cum-Estate Officer, Andhra Sub Area, Bolaram, Secunderabad.

(Respondent No.3 deleted as per C.O. dated 01.07.2024 vide I.A. No.1 of 2017)

...RESPONDENTS

I.A. NO: 1 OF 2016(WAMP. NO: 1225 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 suspend the operation of the order dt. 22-6-2001 in CMA No.124/1997 as confirmed by the order of Hon'ble court dated 15-10-014 in WP.No.8625/2006 pending disposal of the WA.

**Counsel for the Appellant: SRI B. NARASIMHA SHARMA, ADDL. SOLICITOR
GENERAL OF INDIA REP. FOR
SRI GADI PRAVEEN KUMAR,
DY. SOLICITOR GENERAL OF INDIA**

**Counsel for the Respondent No.1 & 2: SRI GARLA RAMA KRISHNA REP. FOR
SRI V. HARI HARAN**

WRIT APPEAL NO: 1165 OF 2016

Writ Appeal under clause 15 of the Letters Patent filed against the order dated 28.1.2015 and made in WP.No.8184 of 2006 on the file of the High Court.

Between:

1. The Station Staff Officer, State Head Quarters, Bolaram, Secunderabad.
2. The Station Commander-cum-Estate Officer, Andhra Sub Area, Bolram, Secunderabad

**(Appellant No.2 is impleaded as per C.O. dated 01.07.2024 vide IA No.1 of 2017
WPMP No.1234 of 2017)**

...APPELLANT/WRIT PETITIONER

AND

1. Smt. Nagamma, W/o. Late Narasimloo, Agriculturist, R/o. Thokatta Village, Tarbund, Secunderabad.
2. The Station Commander-cum-Estate Officer, Andhra Sub Area Bolram, Secunderabad.

(Respondent No.2 is deleted as per C.O. dated 01.07.2024 vide IA No.1 of 2017)

...RESPONDENTS/RESPONDENTS

I.A. NO: 1 OF 2016(WAMP. NO: 2496 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 suspend the operation of order dt. 22-6-2001 in CMA.No.123/1997 as confirmed in the order dt. 28/1/2015 in WP.NO.8184/2006, pending disposal of the WA.

**Counsel for the Appellant: SRI B. NARASIMHA SHARMA, ADDL. SOLICITOR
GENERAL OF INDIA REP. FOR
SRI GADI PRAVEEN KUMAR,
DY. SOLICITOR GENERAL OF INDIA**

**Counsel for the Respondent No.1: SRI GARLA RAMA KRISHNA REP. FOR
SRI V. HARI HARAN**

The Court delivered the following: COMMON JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT APPEAL Nos.467 AND 1165 OF 2016

COMMON JUDGMENT: *(per the Hon'ble Shri Justice Anil Kumar Jukanti)*

The issue involved in these writ appeals is common, hence, both the appeals are heard together and are being disposed of by this common judgment.

Mr. B. Narasimha Sharma, learned Additional Solicitor General of India appears for Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for the appellants.

Mr. Garla Rama Krishna, learned counsel appears for respondent No.1.

2. These intra court appeals are filed against orders dated 15.10.2014 and 28.01.2015 passed by learned Single Judges in W.P.Nos.8625 and 8184 of 2006. For brevity Writ Appeal No.467 of 2016 is referred.

3. It is the case of the unofficial respondents that they are the owners of land admeasuring 100 sq. yards in GLR survey

No.593, Survey No.93/2 of Thokatta Village. Appellant No.2 passed an order on 07.06.1997 under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, 'the 1971 Act') in case No.1178/3/593/KY/Q for eviction of unofficial respondents from subject property. Aggrieved by the order, unofficial respondents filed C.M.A.Nos.124 and 123 of 1997 on the file of the Chief Judge, City Civil Court Hyderabad. Chief Judge, City Civil Court, Hyderabad allowed the C.M.As., by order dated 22.06.2001. Challenging the said order(s), W.P.Nos.8625 and 8184 of 2006 were filed. Learned Single Judge dismissed the said writ petitions on merits by orders dated 15.10.2014 and 28.01.2015. Challenging the said orders, the present writ appeals are filed.

4. Learned Senior Counsel appearing on behalf of appellants submits that unofficial respondents are encroachers on the subject property and as such eviction proceedings were initiated. It is further submitted that demarcation of the subject property was carried out and observed that the unofficial respondents were in occupation of the land pertaining to the appellant-

organization. It is also submitted that substantial rights with respect to immovable property are involved, but the learned Single Judge decided the matters mechanically. It is fairly submitted that a joint demarcation survey shall be conducted in the presence of the unofficial respondents with respect to the subject property and the demarcation report shall be placed before the competent authority. It is urged that matter be remitted to the competent authority for decision afresh.

5. Learned counsel appearing on behalf of the unofficial respondents supported the order of the learned Single Judge. It is submitted that the subject property is not an unauthorized premises and no proceedings under the 1971 Act can be initiated. It is further submitted that the Chief Judge, City Civil Court, Hyderabad, in his order after proper appreciation of evidence held that the order of eviction to be bad. It is pointed out the competent authority personally visited the subject premises and that no notice of personal visit was issued and being a quasi judicial authority could not have visited the premises. It is lastly submitted that learned Single Judge has

rightly considered the aspect of delay in filing the writ petition(s) and dismissed the writ petitions considering all the issues.

6. Heard learned counsels, perused the record and considered the rival submissions.

7. On a complaint of the appellant No.1, appellant No.2 passed an order under Section 5 of the 1971 Act, in case No.1178/3/593/KY/Q dated 07.06.1997, ordering eviction of respondent Nos.1 and 2 from the subject property. Respondent Nos.1 and 2 preferred C.M.A.No.124 of 1997 under Section 9 of the 1971 Act before the Chief Judge, City Civil Court, Hyderabad. The trial Court by order dated 22.06.2001, allowed the C.M.A, setting aside the order of eviction of appellant No.2.

8. Exs.A-1 to A-7 were marked on behalf of the appellant No.1, Exs.B-1 to B-4 were marked on behalf of unofficial respondents.

Ex.A1 - Extract of GLR Survey No. 593/1 with correspond Revenue Sy.No.93.

Ex.A2 - Gazette Notification of AP Gazette, dated 05.02.1976.

Ex.A3 - Letter of Govt. of AP, Revenue Department, dated
01.10.1986.

Ex.A4 - Notice of Award Sec, 12(2) of Act I, 1894, dated
23.09.1986.

Ex.A5 - Proceedings of District Collector, dated 23.09.1986.

Ex.A6 - Joint Demarcation Report of Survey No. 93/2, dated
02.12.1992.

Ex.A7 - Sketch plan of Survey No .93/2, dated 02.12.1992.

Exs.B1 to B4 - Four photographs of the site in question.

9. Unofficial respondents did not file any documentary evidence, such as a village plan or other documents issued by Cantonment Board or Civil Body or Mandal Revenue Officer to prove that the encroached subject property (with Structures) are not situated within the boundaries of GLR.No.593 corresponding to Revenue Sy.No.93/2. Appellant No.2 personally inspected the subject property, appellant No.2 while discharging duties as a quasi judicial functionary should not have visited the subject premises while adjudicating the issue. The inspection report could not be made the basis of the order passed by the competent authority. The material on record namely, the oral

and documentary evidence adduced by the parties alone ought to have been considered by the competent authority. Therefore, the findings recorded by the competent authority as well as the appellate authority cannot be sustained in the eye of law. Therefore, in the peculiar facts of the case, the order passed by the competent authority as well as the Chief Judge, City Civil Court, Hyderabad and the orders passed by the learned Single Judge are set aside.

10. Since the writ appeals were entertained by this Court in the year 2016 and are pending since then, and since the learned Single Judge has dealt with the matter on the merits, we are not inclined to dismiss the appeals on the ground that the appellant approached the writ Court belatedly.

11. In the facts of the case, ends of justice would be met if joint demarcation survey in the presence of the unofficial respondents is carried out and the report is placed before the competent authority. The competent authority, thereafter, shall proceed to take into account the aforesaid joint demarcation survey as well

as the evidence adduced by the parties and shall pass a fresh order in accordance with law within a period of three months from the date of receipt of a copy of this order.

12. With the above observations, the writ appeals are disposed of. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

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SD/- I. NAGALAKSHMI
DEPUTY REGISTRAR

SECTION OFFICER

To,

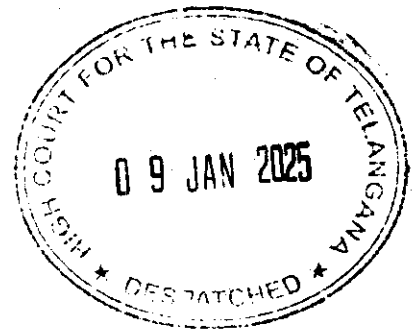
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 6. One CC to SRI GADI PRAVEEN KUMAR, DY. SOLICITOR GENERAL OF INDIA [OPUC]
 7. One CC to SRI V. HARI HARAN, Advocate [OPUC]
 8. One CC to SRI GARLA RAMA KRISHNA, Advocate [OPUC]
 9. Two CD Copies
- BN

HIGH COURT

DATED:01/07/2024

COMMON JUDGMENT

WA.Nos.467 & 1165 of 2016



**DISPOSING OF BOTH THE WRIT APPEALS
WITHOUT COSTS**

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G.B

7/11/24