

**IN THE 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 NO: 12420 OF 2005

Between:

1. V. Kumar S/o Pochaiah, Labour rep by their GPA K. Venu S/o K. Krishna Business, R/o H. NO. 3-3-80, Kurma Basthi General Bazar, Secunderabad
2. Smt. G. Laxamma W/o Danaiah, rep by their GPA K. Venu S/o K. Krishna Business, R/o H. NO. 3-3-80, Kurma Basthi General Bazar, Secunderabad
3. Smt. Kausalya W/o Satyanarayana, Labour rep by their GPA K. Venu S/o K. Krishna Business, R/o H. NO. 3-3-80, Kurma Basthi General Bazar, Secunderabad
4. A. Venkatesh S/o Jagan, Labour R/o Vaddera Basthi, East Marredopally, Secunderabad
5. D. David Raj, S/o Devadanam, Business R/o Vaddera Basthi, East Marredopally, Secunderabad

...PETITIONERS

AND

1. The District Collector, Hyderabad, District, Nampally Station Road, Hyderabad
2. The Mandal Revenue Officer, Maredpally Mandla, Secunderabad
3. Superintending Engineer, SCADA, Erragadda, Hyderabad, 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 a Writ, order or direction, more preferably in the nature of Writ of Mandamus declaring the action of the respondents in demolishing the houses of the petitioners bearing plot Nos. Nos. 232, 233, 234, 235/1 and 235 respectively, situated in Survey No.74/11 forming parts of vaddera basti colony of East Maredpally, Secunderabad as high handed illegal and without giving any

reasonable opportunity of hearing the petitioners and therefore hit by the provisions of Article 14 and 21 of the Constitution of India, principles of natural justice and doctrine of legitimate expectation and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners in respect of their houses in Sy. No. 74/11 in maredpally, Secunderabad.

I.A. NO: 1 OF 2005(WPMP. NO: 15800 OF 2005)

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 direct the respondents not to interfere with the peaceful possession and enjoyment of the respective house of the petitioners in Plot Nos. Nos. 232, 233, 234, 235/1 and 235 respectively, situated in Survey No. 74/11 forming part of Vaaddar Basti Colony of East Maredpally, Secunderabad.

I.A. NO: 1 OF 2015(WVMP. NO: 894 OF 2015)

Between:

1. The District Collector, Hyderabad, District, Nampally Station Road, Hyderabad
2. The Mandal Revenue Officer, Maredpally Mandla, Secunderabad

...PETITIONERS/RESPONDENTS

AND

1. V. Kumar S/o Pochaiah, Labour rep by their GPA K. Venu S/o K. Krishna Business, R/o H. NO. 3-3-80, Kurma Basthi General Bazar, Secunderabad
2. Smt. G. Laxamma W/o Danaiah, rep by their GPA K. Venu S/o K. Krishna Business, R/o H. NO. 3-3-80, Kurma Basthi General Bazar, Secunderabad
3. Smt. Kausalya W/o Satyanarayana, Labour rep by their GPA K. Venu S/o K. Krishna Business, R/o H. NO. 3-3-80, Kurma Basthi General Bazar, Secunderabad
4. A. Venkatesh S/o Jagan, Labour R/o Vaddera Basthi, East Marredopally, Secunderabad
5. D. David Raj, S/o Devadanam, Business R/o Vaddera Basthi, East Marredopally, Secunderabad

...RESPONDENTS/PETITIONERS

6. Superintending Engineer, SCADA, Erragadda, Hyderabad, Secunderabad

...RESPONDENT/RESPONDENT

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 vacate the interim order passed in WPMP.No. 15800/2005 in WP.No.12420/2005, dated:14.06.2005.

**Counsel for the Petitioners : SRI V.HARI HARAN, Sr.COUNSEL
rep., SRI SRIKANTH HARIHARAN**

Counsel for the Respondents No.1&2 : GP FOR REVENUE

Counsel for the Respondent No.3 : SRI R.VINOD REDDY, SC FOR TSSPDCL

The Court made the following: ORDER

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

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.12420 of 2005

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

This writ petition is filed seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a writ, order or direction, more preferably in the nature of writ of Mandamus, declaring the action of the respondents in demolishing the houses of the petitioners bearing plot Nos.232, 233, 234, 235/1 and 235 respectively, situated in Survey No.74/11 forming part of Vaddera Basti Colony of East Maredpally, Secunderabad as high handed, illegal and without giving any reasonable opportunity of hearing the petitioners and therefore hit by the provisions of Article 14 and 21 of the Constitution of India, principles of natural justice and doctrine of legitimate expectation and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners in respect of their houses in Sy.No.74/11 in Maredpally, Secunderabad and pass such other order or orders as may deem fit and proper in the circumstances of the case.”

2. Heard Mr. V. Hariharan, learned Senior Counsel representing Sri Srikanth Hariharan, Mr. K. Muralidhar Reddy,

learned Government Pleader for Revenue appearing on behalf of respondent Nos.1 and 2 and Mr. R. Vinod Reddy, learned Standing Counsel for respondent No.3.

3. **Brief facts of the case :**

3.1. The claim of the petitioners is that one Smt. Namdarunnisa Begum was the original owner and pattadar of the land in Sy.No.74/11 situated at East Maredpally, Secunderabad, and she was survived two sons, namely Syed Ghousuddin and Syed Shamshuddin Ahmed. The land in question was purchased by one Davji Hirji Shah and there is a dispute between him and the legal heirs of Namdarunnisa Begum and they filed suit in O.S.No.49 of 1968 on the file of the Chief Judge, City Civil Court, Hyderabad, and the said Court decreed the suit in 30.12.1969 and by virtue of the decree, 70% of the land was given to Davji Hirji Shah and 30% of the land was given to legal heirs of late Namdarunnisa Begum. When Davji Hirji Shah and his legal heirs sought to evict the persons, who are in possession in the subject land, E.P.No.20 of 1991 on the file of II Additional Judge, City Civil Court, Hyderabad, the parties arrived compromise and the same was recorded on 22.04.1994, wherein the area in

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occupation of respective tenants were identified and confirmed in their favour and the remaining left over area was taken over by the said Davji Hirji Shah and his legal heirs.

3.2. It is further averred that in the above said compromise, the petitioners were figured and allotted plots, and also averred that the petitioners have been in possession of their respective plot Nos.232, 233, 234, 235/1 and 235 respectively more than 30 years even prior to the date of compromise decree and constructed small houses in the said plots and residing.

3.3. The petitioners further averred that respondent No.2, without giving any notice, straight away demolished the petitioners' compound walls and houses. Immediately, the petitioners have approached the respondents and submitted representation questioning illegal demolition of their houses and to do justice, but they have not given any response. In June 2005, the officials of respondent No.3 office have taken measurements of the petitioners' demolished plots for installing a transformer and electrical equipment, without issuing any notice to the petitioners, though subject property is a private property.

3.4. Respondent No.1 in his letter dated 31.10.1995 confirmed that the land in Sy.No.74 which is corresponding to several town Sy.Nos. 119 and 130 and the same are private lands. The action of the respondent authorities in demolishing the property of the petitioners without giving any notice and reasonable opportunity of hearing is in gross violation principles of natural justice and also violative of Articles 14 and 21 of the Constitution of India.

3.5. Respondent Nos.1 and 2 filed counter-affidavit stating that the land in Sy.No 74 of Marredpally Paigah village is classified as government "Poramboke" land and the land in question i.e., to an extent 515 Sq. yards in Sy.No.74 was allotted to AP TRANSCO and handed over the possession to respondent No.3 in 2004 for construction of 33/11 KV sub-station by conducting panchamma. It is further stated that any claims of private ownership, including those based on civil decrees are not binding upon them, as the government was not a party in those proceedings. The respondents denied the petitioners' claim in respect of property including demolition of houses and also stated that the land is vacant and the same was handover to respondent No.3.

3.6. Respondent No.3 filed counter affidavit, wherein it is stated that in Addagutta area there is frequent power interruptions and low voltage issues and for the purpose of construction of 33/11 KV sub-station, the District Collector allotted 515 sq. yards of land and laid a foundation stone in April 2005. The 33/11 KV sub-station is aimed at benefiting the local public. It is further stated that the land in Sy.No.74/11 of East Maredpally Village was classified as Government Poramboke and the said land was allotted to respondent No.3 in May 2004 and sub-station construction was completed in the year 2005 itself.

4. Submissions of learned counsel for the petitioners:

4.1. Learned Senior Counsel for the petitioners submits that petitioners are in possession of lots bearing Nos. 232, 233, 234, 235/1 and 235 respectively, covered by Sy.No.74/11 since long time and constructed houses and their possession was recognized by the competent civil court in E.P.No.20 of 1991 in O.S.No.49 of 1968 on the file of the II Additional Judge, City Civil Court, Hyderabad, through compromise decree and he further contended that the petitioners have been in possession

of the subject property more than 30 years even prior to the date of compromise decree.

4.2. He further submitted that respondent No.2 without giving any notice and opportunity to the petitioners demolished the compound wall and houses and the same was allotted to respondent No.3 for establishment of sub-station and the same is in gross violation of the principles of natural justice and violative of Articles 14, 21 and 300-A of the Constitution of India.

4.3. He further contended that respondent No.1 himself addressed a letter to the Commissioner, MCH, Hyderabad on 31.10.1995 stating that the subject property is in Sy.No.74/11 is a private land. He also contended that one Mr.E.Bhagavandas filed L.G.C.No.70 of 1994 on the file of the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad, claiming that he is owner of the schedule property mentioned therein and the respondents therein grabbed the said land without having any legal entitlement. In the said case, the Mandal Revenue Officer, Secunderabad, impleaded as party respondent claiming that

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the property belongs to the Government. In the said L.G.C., the Special Court rejected the claim of the Government. He further contended that the State Government filed L.G.C.No.167 of 1997 claiming the entire Sy.No.74 belongs to the Government. The Special Court after considering the oral and documentary evidence on record dismissed L.G.C.No.167 of 1997, by its judgment and decree dated 18.03.2010. Aggrieved by the same, the Government filed Writ Petition No.19106 of 2010 and the same is pending, wherein the Division Bench of this Court has not granted any stay. Hence, the respondent authorities are not having any right in respect of the subject property, on the other hand, the same was allotted to respondent No.3 by demolishing the petitioners' houses. Unless and until, the respondents initiate the Land Acquisition proceedings and acquire the subject property by paying compensation, they are not entitled to demolish and dispossess the petitioners and allot the same respondent No.3.

4.4. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court in **Sukh Dutt Ratra and another v. State of Himachal Pradesh and others**¹.

5. **Submissions of learned counsel for the respondents No.1 and 2:**

5.1. Learned Government Pleader submits that entire Sy.No.74 belongs to the Government. The petitioners are claiming rights pursuant to the memorandum of compromise entered in E.P.No.20 of 1991 in O.S.No.49 of 1968. In the said case, the respondents are not the parties and the said compromise is not binding upon them. He further submits that the petitioners are not the parties in Land Grabbing Case vide L.G.C.No.70 of 1994 and L.G.C.No.167 of 1997. The petitioners are claiming rights from Devji Hirji Shah, especially they are claiming rights from Namdarunnisa Begum, and the said persons are not having any semblance of right over the subject property. He further contended that there are no houses/structures in the subject property and the respondents have not demolished the houses as alleged by the petitioners and the respondents handed over the same for the public purpose for establishment of sub-

¹ (2022) 7 SCC 508

station. The land to an extent of 515 sq. yards was allotted to respondent No.3 and handed over the possession by conducting panchanama for installation of 33/11 KV sub-station for the public purpose. Accordingly, respondent No.3 established sub-station and the petitioners are not entitled to seek any relief in the writ petition.

6. Submission of Learned Standing Counsel for respondent No.3:

6.1. Learned Standing Counsel submits that respondent No.3 is proposed to erect 33/11 KV sub-station in Addagutta area, as there are frequent interruption in power supply and low voltage in surrounding areas and to meet the quality of power supply in that area, the APCPDCL has approached respondent No.1-District Collector for allot of land to erect of sub-station. Accordingly, respondent No.1 allotted 515 sq. yards of vacant land in Sy.No.74 by conducting panchanama and handed over to respondent No.3 on 26.05.2004. Respondent No.3 constructed sub-station in the year 2005 itself and the petitioners are not entitled to claim any relief against respondent No.3.

Analysis:

7. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the petitioners are clamming rights over the subject property through compromise memo filed in E.P.No.20 of 1991 in O.S.No.49 of 1968. In the said proceedings, respondent Nos.1 and 2 are not parties and same is not binding upon them.. The specific claim of respondent Nos.1 and 2 that the subject property to an extent of 515 sq. yards in Sy.No.74 is belonging to the government land and same was allotted to respondent No.3 for public purpose for establishment of 33/11 KV sub-station and respondent No.2 after conducting panchanama handed over the possession to respondent No.3 on 26.05.2004. Accordingly, respondent No.3 constructed 33/11 KV sub-station and the subject property is vacant land and they specifically denied that there are any structures in the subject property, whereas the petitioners are claiming that they constructed houses and the same are demolished.

8. It further reveals that from the record that in L.G.C.No.70 of 1994, the property claimed by the applicant therein is in

respect of land in Sy.No.74/10 to an extent of Ac.4.00 gts., wherein the subject property claimed by the petitioners herein was not included and the petitioners are also not parties in the said case. Merely because of denying the claim of the government in the said judgment, the petitioners are not entitled to contend that the subject property is not belonging to the government. Insofar as the other contention of learned counsel for the petitioners that the government filed L.G.C. No. 167 of 1997 against the Vijayanathi Corporation Housing Society and others seeking declaration declaring that the respondents therein are land grabbers and entire land covered by Sy.No.74/10 belonging to the government and said case was dismissed on 18.03.2010 is concerned, in the said case the petitioners are not the parties and it is brought to the notice of this Court aggrieved by above said judgment, government filed Writ Petition No.19610 of 2010 and the case is pending before this Court and the same was reserved for judgment.

9. It is pertinent to mention that in this writ petition, the petitioners are especially seeking declaration declaring the action of the in demolishing the houses of the petitioners bearing plot Nos. 232, 233, 234, 235/1 and 235 respectively

situated in Survey No. 74/11 forming part of Vaddera Basti Colony of East Maredpally, Secunderabad, as illegal and sought consequential direction not to interfere with their possession. Whereas, the claim of the respondents is that the subject land is government land and no houses/structures existed in the subject property claimed by the petitioners and same was handover to respondent No.3 for public purpose i.e., for construction of sub-station in the year 2004 and the same was completed. The petitioners and respondents have raised several disputed questions of facts and also title over the property and the same cannot be adjudicated in the Writ Petition.

10. In **Shalini Shyam Shetty v. Rajendra Shankar Patil**², the Hon'ble Supreme Court held that a proceeding under Article 226 of the Constitution of India is not an appropriate remedy for adjudication of property disputes or disputes relating to title. It was further held in para Nos.59 to 61, which read as follows:

“59. It has repeatedly been held by this Court that a proceeding under Article 226 of the Constitution is not the appropriate forum for adjudication of property

² (2010) 8 SCC 329

disputes or disputes relating to title. In **Mohd. Hanif v. State of Assam** [(1969) 2 SCC 782] a three-Judge Bench of this Court, explaining the general principles governing writ jurisdiction under Article 226, held that this jurisdiction is extraordinary in nature and is not meant for declaring the private rights of the parties. (See SCC p. 786, para 5 of the Report.) In coming to the aforesaid conclusion in **Hanif** [(1969) 2 SCC 782], this Court referred to the Constitution Bench decision in **T.C. Basappa v. T. Nagappa** [AIR 1954 SC 440].

60. Following the aforesaid principles in **Hanif** [(1969) 2 SCC 782], this Court in **Hindustan Steel Ltd. v. Kalyani Banerjee** [(1973) 1 SCC 273] held that serious questions about title and possession of land cannot be dealt with by writ court. In formulating these principles in **Kalyani Banerjee** [(1973) 1 SCC 273], this Court relied on the Constitution Bench decision in **Sohan Lal** [AIR 1957 SC 529] (see SCC p. 282, para 16 of the Report).

61. Again in **State of Rajasthan v. Bhawani Singh** [1993 Supp (1) SCC 306] this Court held that a writ petition is not the appropriate forum to declare a person's title to property. (See SCC p. 309, para 7 of the Report.)”

11. It is trite law that where disputed questions of fact regarding ownership and title between the parties, the same

cannot be adjudicated while exercising the powers conferred under Article 226 of the Constitution of India.

12. Insofar as the contention of the learned Senior Counsel for the petitioner that the Government has filed L.G.C.No.167 of 1997 claiming rights and ownership in respect of Sy.No.74 and the said case was dismissed by the Special Tribunal, by its judgment and decree dated 18.03.2010, hence, the respondent authorities ought to have pay the compensation by initiating Land Acquisition proceedings to the petitioners is concerned, the record reveals that against the judgment and decree dated 18.03.2010 passed in L.G.C.No.167 of 1997, the Government filed Writ Petition No.19106 of 2010 before this Court and the same is pending. According to both the learned counsel, the said Writ Petition No.19106 of 2010 is reserved for judgment by a Division Bench of this Court. At this juncture, the petitioners are not entitled to seek compensation in respect of the subject property, especially the above said Writ Petition No.19106 of 2010 has not been decided. Hence, the petitioners are entitled to work out their remedies after the issue decided in the above said Writ Petition, especially the petitioners are claiming rights,

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title in respect of the subject property, whereas the respondents are disputed the same.

13. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

SD/- T. JAYASREE
ASSISTANT REGISTRAR
SECTION OFFICER

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To,

1. The District Collector, Hyderabad, District, Nampally STation Road, Hyderabad
2. The Mandal Revenue Officer, Maredpally Mandla, Secunderabad
3. The Superintending Engineer, SCADA, Erragadda, Hyderabad, Secunderabad
4. One CC to SRI V.HARI HARAN, Advocate. [OPUC]
5. Two CCs to GP FOR REVENUE, High Court for the State of Telangana. [OUT]
6. One CC to SRI R.VINOD REDDY, SC FOR TSSPDCL. [OPUC]
7. Two CD Copies.

BSK

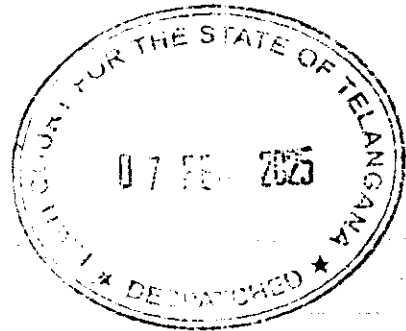
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HIGH COURT

DATED:28/10/2024

ORDER

WP.No.12420 of 2005



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS**

PA

11/11/24

10 Copies.