HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY,THE NINETEENTH DAY OF MARCH TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL AND THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 281 OF 2025

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 19/02/2025 passed in W.P No. 36415 of 2024 on the file of the High Court.

Between:

S, Muralidhar, S/o.S.Sreedhar Rao, aged about 26 years, Occ. Business, R/o.Plot Nos.13, 14, 15, Nandagiri Hills, Jubilee Hills, Hyderabad - 500 033.

...APPELLANT

AND

1. The State of Telangana, Rep, by its Principal Secretary, Municipal Administration and Urban Development Department, Telangana Secretariat, Hyderabad.
2. The Hyderabad Metropolitan Development Authority, Rep. by its Metropolitan Commissioner, Swarna Jayanthi Complex, Ameerpet, Hyderabad 500 020.
3. K.Vijay Bharath Reddy, R/o.H.No.241, Bayyaram Village, Pinapaka Mandal, Bhadradri-Kothagudem District, Telangana State - 507 117.

...RESPONDENTS

IA NO: 1 OF 2025

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 direct the Respondents to maintain Status Quo with regard to the land admeasuring 1210 sq.Yds in Lot No.10 in Sy.No.124 and 125 (described as Sy.No.26), kacha Gachibowli, Ranga Reddy District, auctioned vide confirmation-cum-allotment letter No.52/EMU/HMDA/Stray Bits-II/Lot No.10/222, dated 01-05-2023, pending disposal of the main Writ Appeal

IA NO: 2 OF 2025

Between:

S. Muralidhar, S/o.S.Sreedhar Rao, aged about 26 years, Occ. Business, R/o.Plot Nos.13, 14, 15, Nandagiri Hills, Jubilee Hills, Hyderabad - 500 033.

...PETITIONER/PETITIONER

AND

1. The State of Telangana, Rep, by its Principal Secretary, Municipal Administration and Urban Development Department, Telangana Secretariat, Hyderabad.
2. The Hyderabad Metropolitan Development Authority, Rep. by its Metropolitan Commissioner, Swarna Jayanthi Complex, Ameerpet, Hyderabad 500 020.
3. K.Vijay Bharath Reddy, R/o.H.No.241, Bayyaram Village, Pinapaka Mandal, Bhadradri-Kothagudem District, Telangana State - 507 117.

...RESPONDENTS/RESPONDENTS

4. The State of Telangana, Rep. by its Prl. Secretary, Revenue Division, Telangana Secretariat, Hyderabad.
5. The District Collector, Ranga Reddy District, Office of Collector & District Magistrate, Ranga Reddy District Kongara Kalan Village, Ibrahimpatnam, Kongara Kalan, Telangana 501510
6. The Tahsildar, Serilingampally Mandal, Ranga Reddy District, Plot No.16, 1st Floor, Srila Realty Layout, Madinaguda, Miyapur, Serilingampalle (M) Hyderabad, Telangana 500009

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 implead the Proposed Respondents 4 to 6 herein as Respondent Nos.4 to 6 in the main Writ Appeal and all other connected Interlocutory Applications

Counsel for the Appellant: Ms. A SATYASIRI

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

Counsel for the Respondent No.2: SRI SIDDHARTHA VORUGANTI REP., FOR SRI V. NARASIMHA GOUD SC FOR HMDA

Counsel for the Respondent No.3: ---

Counsel for the Proposed Respondents: GP FOR REVENUE

The Court made the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.281 OF 2025

JUDGMENT: *(Per Hon'ble Smt. Justice Renuka Yara)*

This is an intra-court appeal preferred, aggrieved by the order dated 19.02.2025 passed in W.P.No.36415 of 2024 by the learned Single Judge of this Court, wherein the appellant sought to declare the action of respondent No.2 in selling an extent of 1210 square yards as a stray bit in Lot No.10 situated in Sy.Nos.124 and 125 (described as Sy.No.26 by the Government) Kancha Gachibowli, Ranga Reddy District in favour of respondent No.3 *vide* confirmation-cum-allotment letter dated 01.05.2023 including the road of 30 feet situated on the southern side of plot No.8 belonging to the appellant, as arbitrary and illegal and to direct respondent No.2 to leave the road of 30 feet situated on the southern side of plot No.8 of the petitioner while disposing of the stray bit at any point of time in future.

2. Heard Ms. A.Satyasiri, learned counsel for the appellant and Sri Siddhartha Voruganti, learned counsel representing Sri V.Narasimha Goud, learned Standing Counsel for HMDA, for respondent No.2.

3. The learned Single Judge dismissed the writ petition primarily on three grounds. The first ground is that the case involves serious

disputed questions of fact which cannot be considered in writ petition filed under Article 226 of the Constitution of India. The disputed questions of facts include identification of the property in Sy.Nos.124 and 125 as contended by the appellant and in Sy.No.26 as contended by respondent No.2, boundaries of the plots in the sale deeds, existence of a public road, etc. The second ground cited by the learned Single Judge for dismissing the writ petition is that there is failure to array the District Collector, Ranga Reddy District as party to the writ petition. Lastly, the contention of the writ petitioner about failure of respondent No.3 to pay the complete sale consideration within the stipulated timeline is described as an issue between respondent No.2 and respondent No.3.

4. Learned counsel for the appellant would submit that the learned Single Judge erred in dismissing the writ petition on the ground of involvement of serious disputed questions of fact. The Hon'ble Supreme Court in several decisions has held that disputed questions of fact are not a bar to maintainability of the writ petitions, more so, when the facts are largely documentary and matter involves public law element. According to the appellant, there is no serious or genuine factual dispute with reference to Sy.No.26 as claimed by respondent No.2 or Sy.Nos.124 and 125 as claimed by him. This contention of the appellant is not tenable for the reason that not only the survey

numbers are different as claimed by the rival parties, but the very existence of 30 feet road on southern side of plot No.80 of the appellant is also in dispute. Mere production of documents ranging from 1984 to till date will not suffice, as contents of said documents have to be proved. There is a dispute about the validity of the lay out which is sanctioned by the Gram panchayat and the validity of the building sanction accorded by GHMC. Respondent No.2 contends that layout issued by Gram Panchayat has no validity. Per contra, the appellant contends that the disputed lay out is under the process of regularization subject to Lay Out Regularization Scheme (LRS) *vide* proceedings No.LRS/2076/G/CG-11/West Zone/GHMC/2008, as said proposal was submitted prior to his purchase from his erstwhile vendor. The fate of said LR application which was allegedly submitted in the year 2004 is not revealed by the appellant. Such disputed questions cannot be decided under the purview of a writ petition under Article 226 of the Constitution of India.

5. There is an issue about non-joinder of the District Collector, Ranga Reddy District or the Tahsildar, as held by the learned Single Judge. To overcome the same, the appellant has filed I.A. to implead the State Government of Telangana, District Collector and Tahsildar of Ranga Reddy District as respondents. The said application was filed

belatedly and arraying them as parties would not facilitate in solving the serious factual disputes.

6. According to the appellant, respondent No.2 is entrusted with the authority of planning and development and the said authority cannot sell off a road which is existing from several decades for a stray bit and that public cart-tract cannot be extinguished by an administrative action. It is a point to be noted that the very existence of a road is disputed by the HMDA with a serious allegation that the lay out sanctioned by Gram Panchayat has no sanctity in the eye of law. Respondent No.2 took a categorical stand that auctioned land is a Government land and no approach road will be given to private land lay outs. Further, it is alleged that the appellant apprehends that his building permission would be cancelled if the local bodies are arrayed as parties i.e. District Collector, Tahsildar and the GHMC. The appellant while asserting existence of the road, did not seek to establish the same by impleading the District Collector, Tahsildar and GHMC. The GHMC, though not a necessary party, would be a proper party to throw light on the fact of grant of building permission and the existence of road on the southern side of plot No.8 of the appellant. For the reasons best known to the appellant, he did not array them as necessary and proper parties as respondents. Even otherwise, the existence of public road in the alleged private lay out, which is the

subject matter of LRS, cannot be established by mere pleadings of the appellant.

7. The appellant asserted that pursuing the civil suit will cause irreparable hardship to him and other owners, and in the meantime, respondent No.3, who was the successful bidder, could proceed to take possession and block the road, rendering the very relief nugatory. This ground does not seem reasonable as the appellant can always seek interim relief to prevent respondent No.3 from taking possession or blocking the road by filing appropriate application before the civil Court.

8. The appellant would contend that the impugned order passed by the learned Single Judge does not address the broader public interest dimension, as a 30 feet road is not a private right of way of the appellant but is the public road for the entire lay out and that selling a public road through an auction offends public policy and subverts the planning framework of HMDA. We do not see any force in this contention of the appellant, inasmuch as except the appellant, none others have challenged the sale of the piece of land by the Government as a stray bit.

9. Lastly, the appellant referred to judgment of the Hon'ble Supreme Court of India reported in ***Popatrao Vyankatraon Patil v.***

State of Maharashtra[1], wherein it was held that writ petitions are maintainable even though the fact based controversy involves patent illegality, public duty or documentary evidence sufficiently establishing the right in question. When the appellant himself is claiming right over a plot which is unauthorized and which is sought to be regularized *vide* aforesaid proceedings dated 07.03.2009 that too from the year 2009 whose fate is not yet revealed, the allegation of patent illegality on the part of the respondents or offence to public policy does not seem tenable. In view of the foregoing discussion, we do not find any reason to interfere with the order passed by the learned Single Judge.

10. In the result, the Writ Appeal is dismissed. There shall be no order as to costs.

Miscellaneous applications, if any, pending in this appeal, shall stand closed.

SD/-K. SHYLESHI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Ms. A SATYASIRI Advocate [OPUC]
2. One CC to SRI V. NARASIMHA GOUD SC FOR HMDA [OPUC]
3. Two CCs to GP FOR MCPL ADMN URBAN DEV ,High Court for the State of Telangana. [OUT]
4. Two CCs to GP for Revenue, High Court for the State of Telangana at Hyderabad. [OUT]
5. Two CD Copies

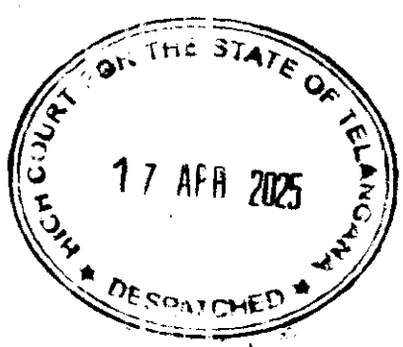
KKS
BS

HIGH COURT

DATED:19/03/2025

JUDGMENT

WA.No.281 of 2025



DISMISSING THE WRIT APPEAL WITHOUT COSTS

(9) PA
3/4/25