HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY, THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

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

WRIT APPEAL NO: 520 OF 2025

Writ Appeal under clause 15 of the Letters Patent Preferred Against Order Dated 15/04/2025 in WP No 8887 of 2025. on the file of the High Court.

Between:

Residents Welfare Associations, Joint Action Committee, Represented by its President, Mr. B.S. Uday Prakash, Having office at D. No. 2-1-1-14/5, Plot No. 3, Harikrishna Nagar, Macha Bollarum, Alwal Mandal, Medchal Malkajgiri District.

...APPELLANT/PETITIONER

AND

1. The State of Telangana, Rep by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad.
2. Greater Hyderabad Municipal Corporation, Represented by its Commissioner, Tank Bund Road, Hyderabad.
3. Greater Hyderabad Municipal Corporation, Rep. by its Zonal Commissioner, Kukatpally, Hyderabad.
4. The Dy. Commissioner, Greater Hyderabad Municipal Corporation, Alwal Circle 27, Kukatpally Zone, Medchal Malkajgiri District.
5. The District Collector, Medchal Malkajgiri District, Integrated District Office Complex, Anthaipalli Village, Shamirpet Mandal, Medchal Malkajgiri District.
6. The Tahsildar,, Alwal Mandal, Medchal Malkajgiri District.
7. The Member Secretary, TG Pollution Control Board, A-3, Paryavaran Bhavan, Sanath Nagar Road, Sanath Nagar Industrial Estate, Sanath Nagar, Hyderabad.
8. The Project Head, HIMSW Limited, Sy. No. 173, Jawaharnagar, C.R.P.F Road, near Army Dental College, Kapra Mandal, Medchal Malkajgiri District - 500 087.

...RESPONDENTS/RESPONDENTS

IA NO: 2 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 respondent Nos 2 to 5 to stop the illegal construction made by the 8th respondent and safe guard the Hindu Grave Yard situated in Sy.No.199 near Mothukunta Cheruvu Macha Bollarum Village, Alwal Mandal, Medchal-Malkajgiri District until the final disposal of this Writ Appeal.

Counsel for the Appellant: SMT. B.RACHNA REDDY, SENIOR COUNSEL FOR SRI MOHD BASEER RIYAZ
Counsel for the Respondent No.1: GP FOR MCPL ADMN & URBAN DEV
Counsel for the Respondent Nos.2 TO 4: SRI K.RAVI MAHENDER, SC FOR GHMC
Counsel for the Respondent Nos.5 & 6: SRI MURALIDHAR REDDY KATRAM, GP FOR REVENUE
Counsel for the Respondent No.7: SRI ZESHAN ADNAN MAHMOOD, SC FOR TGPCB
Counsel for the Respondent No.8: --

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.520 of 2025

JUDGMENT *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*:

Smt. B. Rachna Reddy, learned Senior Counsel represents Sri Mohd Baseer Riyaz, learned counsel for the appellant; Sri K. Ravi Mahender, learned Standing Counsel for GHMC, for respondent Nos.2 to 4; Sri Muralidhar Reddy Katram, learned Government Pleader for Revenue, for respondent Nos.5 and 6 and Sri Zeshan Adnan Mahmood, learned Standing Counsel for Pollution Control Board, for respondent No.7.

2. This *intra*-court appeal takes exception to the impugned order dated 15.04.2025 passed by a learned Single Judge of this Court in W.P.No.8887 of 2025 which is interlocutory in nature.

3. If the complete relief which was claimed by the appellant, as an interim measure, has not been granted by the learned Single Judge, the appellant is at liberty to file appropriate fresh application seeking interim direction from learned Single Judge to decide the remaining portion of the interim relief considering the urgency shown.

4. The fact remains that the impugned order is an interlocutory order and does not fall within the ambit of 'judgment'. In W.A.No.506 of 2025 and batch, dated 30.04.2025, it was held as under:

> "7. Admittedly, the appellants are party respondents before the learned Single Judge. The learned Single Judge has passed the impugned order without putting the appellants to notice. Thus, the appellants can certainly file applications for vacation of the aforesaid order. If such applications are filed, the learned Single Judge will certainly examine the same and in that event, it cannot be said that the order impugned passed by the learned Single Judge has attained finality or falls within the ambit of "judgment". Thus, the judgment of the Supreme Court in **LIC of India v. Sanjeev Builders (P) Ltd.** ((2018) 11 SCC 722) is of no assistance in the factual backdrop of this matter. The point involved in this case is no more *res integra*. In catena of judgments, it was held that against an interlocutory order, a Letters Patent Appeal/Writ Appeal can be entertained with circumspection and upon fulfilling the requirements of certain factors.
>
> 8. In **University of Hyderabad, rep. by its Registrar, Central University Campus (P.O), Gachibowli, Hyderabad v. Sadik Hussain** (2013 SCC OnLine AP 342), a Division Bench of the erstwhile High Court of Andhra Pradesh at Hyderabad considered Clause 15 of the Letters Patent and opined that it provides an appeal from a "judgment" of Single Judge in exercise of original jurisdiction to a Division Bench. The judgment of the Supreme Court in **Shah Babulal Khimji v. Jayaben D.Kania** (AIR 1981 SC 1786) was considered and it was held that *'orders falling under categories (iv) and (v) are not 'judgments' for the purpose of filing appeals provided under the Letter Patent'*. Categories (iv) and (v) read thus:
>
> "(iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.
>
> (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties."
>
> Lastly, the Division Bench recorded as under:

" At the cost of the repetition, it is to be noticed that **the learned Single Judge has not decided the rights and obligations of the parties and only passed interlocutory orders and hence in our considered view the same does not satisfy the trappings of the judgments as defined under Clause 15 of the Letters Patent and it will be appropriate for the appellant to file vacate petition.** Accordingly, the writ appeal is disposed of with the said observation."

(Emphasis Supplied)

9. In **Midnapore Peoples' Coop. Bank Ltd. v. Chunilal Nanda** ((2006) 5 SCC 399), on which heavy reliance is placed, the Supreme Court held as under:

"**15.** Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:

(*i*) Orders which finally decide a question or issue in controversy in the main case.

(*ii*) Orders which finally decide an issue which materially and directly affects the final decision in the main case.

(*iii*) Orders which finally decide a collateral issue or question which is not the subject-matter of the main case.

(*iv*) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(*v*) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.

16. The term "judgment" occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in Section 2(9) CPC and orders enumerated in Order 43 Rule 1 CPC, **but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finality in regard to some collateral matter, which will affect the vital and valuable rights and obligations of the**

> **parties.** Interlocutory orders which fall under categories (*i*) to (*iii*) above, are, therefore, "judgments" for the purpose of filing appeals under the Letters Patent. **On the other hand**, orders falling under categories (*iv*) and (*v*) are not "judgments" for the purpose of filing appeals provided under the Letters Patent."
>
> (Emphasis Supplied)

10. The Supreme Court in a recent judgment in **Shyam Sel and Power Limited v. Shyam Steel Industries Limited** ((2023) 1 SCC 634) took a similar view.

11. The Supreme Court laid down the *litmus* test to determine whether the order impugned is a "judgment" within the meaning of Letters Patent. If the present matter is examined on the anvil of said principles, it will be clear that (i) by impugned order the learned Single Judge has not finally decided the question or issue in controversy in the main case, (ii) the impugned order has not decided any issue which materially or directly affects final decision in the Writ Petition, (iii) the impugned order does not have any impact on a collateral issue or question which was not subject matter of main case."

5. In this view of the matter, this Writ Appeal is not maintainable. However, liberty is reserved to the appellant to file appropriate fresh application for grant of stay before the learned Single Judge and mention the matter for hearing urgently including, during summer vacation, 2025. If such a request is made by the appellant, we have no doubt that learned Single Judge will deal with it in accordance with law.

6. With aforesaid and without expressing any opinion on merits of the case, this Writ Appeal is **disposed of**. No costs.

Interlocutory applications, if any pending, shall also stand closed.

Sd/- B. SATYAVATHI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, Hyderabad, State of Telangana.
2. The Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund Road, Hyderabad.
3. The Zonal Commissioner, Greater Hyderabad Municipal Corporation, Kukatpally, Hyderabad.
4. The Dy. Commissioner, Greater Hyderabad Municipal Corporation, Alwal Circle 27, Kukatpally Zone, Medchal Malkajgiri District.
5. The District Collector, Medchal Malkajgiri District, Integrated District Office Complex, Anthaipalli Village, Shamirpet Mandal, Medchal Malkajgiri District.
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8. The Project Head, HIMSW Limited, Sy. No. 173, Jawaharnagar, C.R.P.F Road, near Army Dental College, Kapra Mandal, Medchal Malkajgiri District - 500 087.
9. The Section Officer, Writ Posting Section, High Court for the State of Telangana
10. The Section Officer, Writ Non-Service Section, High Court for the State of Telangana
11. One CC to SRI MOHD BASEER RIYAZ, Advocate [OPUC]
12. Two CCs to GP FOR MCPL ADMN & URBAN DEV, High Court for the State of Telangana, at Hyderabad. [OUT]
13. One CC to SRI K.RAVI MAHENDER, SC FOR GHMC [OPUC]
14. Two CCs to GP FOR REVENUE, High Court for the State of Telangana, at Hyderabad. [OUT]
15. One CC to SRI ZESHAN ADNAN MAHMOOD, SC FOR TGPCB [OPUC]
16. Two CD Copies

PSK.

CC TODAY

HIGH COURT

HAC,J
&
RY,J

DATED:01/05/2025

JUDGMENT

WA.No.520 of 2025



DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS

19 M.T
1/5/25