

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

WEDNESDAY, THE EIGHTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

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

WRIT APPEAL NO: 1103 OF 2024

Writ Appeal under clause 15 of the Letters Patent Preferred Against Order Dated 05/07/2024 in WP.No. 17147 of 2023. on the file of the High Court.

Between:

SMT. SYEDA FARZANA JABEEN, W/o Mohammed Imtiyaz Uddin, D/o Late Syed Khasim Hussaini, aged about 51 years, Occ. Household, R/o H.No.16-50, Wadi-e-Mustafa, Jalpally, Hyderabad, Telangana

...APPELLANT/WRIT PETITIONER

AND

1. The State of Telangana, Rep.by its Prl. Secretary to Government, -Municipal Administration and Urban Development Department, Secretariat, Hyderabad.
2. The Commissioner, Greater Warangal Municipal Corporation (GWMC), Hanmakonda District.
3. The Town Planning Officer, Municipal Corporation, Hanmakonda District

...RESPONDENTS/RESPONDENTS

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 suspend the order dated 05/07/2024 made in W.P No. 17147 of 2023 pending adjudication of the main appeal

**Counsel for the Appellant: SRI. SHAIKH AHMED ALI REP
SRI SYED AYESHA SABA ATTQ SOFIA**

**Counsel for the Respondent No.1: GP FOR MUNICIPAL
ADMINISTRATION AND URBAN DEVELOPMENT**

**Counsel for the Respondent Nos. 2&3: SRI S. SURENDER REDDY,
SC FOR GWMC**

The Court made the following: JUDGMENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J. SREENIVAS RAO**

WRIT APPEAL No.1103 of 2024

JUDGMENT: (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. Shaikh Ahmed Ali, learned counsel appears for Ms. Saba Syed, learned counsel for the appellant.

2. This intra court appeal is filed against an order dated 05.07.2024 passed by the learned Single Judge by which Writ Petition No.17147 of 2023 filed by the appellant seeking inaction on the part of the Commissioner, Greater Warangal Municipal Corporation, in not executing a registered sale deed in respect of LIGH Quarter despite resolution bearing No.87 dated 30.04.1993, has been dismissed.

3. Facts giving rise to filing of the Writ Appeal briefly stated are that the father of the appellant worked as an Assistant Engineer (Electrical) with the respondent Corporation and was residing in a quarter allotted by the

respondent Corporation at Kazipet. It is the case of the appellant that *vide* G.O.Ms.No.56 dated 28.10.1989, the quarter where the father of the appellant was residing was agreed to be sold on hire purchase basis and the cost of the same was fixed at Rs.1,11,797/- by the Municipal Engineer, Warangal Municipal Corporation, Warangal. It has been pleaded that the respondents on determining the cost of the quarter allotted to the father of the appellant on hire purchase basis accepted the initial payment of Rs.14,865/- and were deducting a sum of Rs.1,200/- per month from the salary of the father of the appellant. It is not in dispute that the father of the appellant superannuated in September, 1995.

4. The brothers of the appellant filed a Writ Petition, namely, W.P.No.2397 of 2010 i.e., after a period of 15 years from the date of superannuation of the father of the appellant, seeking execution of the sale deed in respect of the subject quarter. The aforesaid Writ Petition was disposed of by the learned Single Judge of erstwhile High Court of Andhra Pradesh *vide* order dated 24.02.2014 with the direction to the

Commissioner, Warangal Municipal Corporation to consider the case of the brothers of the appellant in accordance with law and to issue them a notice for payment of the balance amount, if any due from them for executing the sale deed in favour of the brothers of the appellant. The brothers of the appellant were also granted the liberty to make payment of the amount within the time limit which was to be fixed by the Commissioner, Warangal Municipal Corporation. However, no further action was taken by the brothers of the appellant after the order dated 24.02.2014. After disposal of the aforesaid Writ Petition filed by the brothers of the appellant i.e., after a period of nine years, the appellant sent a notice dated 02.02.2023 to the Commissioner, Greater Warangal Municipal Corporation and sent a demand draft for a sum of Rs.96,000/- and requested the Commissioner, Greater Warangal Municipal Corporation to execute the sale deed in her favour as legal heir of her deceased father. The Commissioner did not execute the sale deed in favour of the appellant. Thereupon, the appellant filed Writ Petition

No.17147 of 2023 which has been dismissed by the learned Single Judge *vide* order dated 05.07.2024. Hence, this Writ Appeal.

5. Learned counsel for the appellant submitted that G.O.Ms.No.56 dated 28.10.1989 has not been cancelled and is still in force. It is further submitted that in case the sale deed is not executed in favour of the appellant and she is evicted from the subject quarter, she would be rendered homeless. It is therefore submitted that the operation of the order dated 05.07.2024 passed by the learned Single Judge be suspended.

6. We have considered the submissions made by the learned counsel for the appellant and have perused the record.

7. Admittedly, the appellant has filed Writ Petition No.17147 of 2023 after 28 years from the date when her father was superannuated. The father of the appellant, during his lifetime, did not take any steps for execution of the sale deed in his favour. It is pertinent to note that the brothers of the appellant had filed Writ Petition No.2397 of 2010 in which

they sought liberty to deposit the balance amount as well as the direction to the Commissioner, Warangal Municipal Corporation to execute the sale deed. The aforesaid Writ Petition was disposed of on 24.02.2014 directing the Commissioner, Warangal Municipal Corporation to consider the case of the brothers of the appellant in accordance with law and to issue notice for payment of the balance amount. The brothers of the appellant were further granted the liberty to deposit the balance amount, if any, within the time limit which may be fixed by the respondent Corporation. However, the brothers of the appellant did not take any action after the order dated 24.02.2014 was passed.

8. Thereafter, the appellant who claims to be the daughter of the deceased employee filed Writ Petition No.17147 of 2023 after a period of 28 years as stated supra from the date of superannuation of her father seeking in substance the relief of specific performance of contract. The relief of specific performance of contract could not have been granted to her under the common law. Therefore, on this analogy, the same

cannot be granted to the appellant in the absence of any legal right in exercise of extraordinary discretionary jurisdiction under Article 226 of the Constitution of India. There is no explanation from the appellant for the inordinate delay in approaching this Court after a period of 28 years. The learned Single Judge has recorded a finding that there is no material on record to indicate that the appellant's father either during his service tenure or any time after superannuation during his lifetime laid a claim or pursued the matter with regard to the allotment of the subject quarter. The learned Single Judge has rightly held that the subject quarter is a public premises and the appellant who is not an employee of Greater Warangal Municipal Corporation cannot lay any claim. The learned Single Judge has rightly directed the authorities to follow due process of law under Public Premises (Eviction of Unauthorized Occupants) Act, 1971, while taking steps to evict the appellant from the subject quarter.

9. For the aforementioned reasons, we do not find any ground to differ with the view taken by the learned Single Judge.

10. In the result, the Writ Appeal fails and is hereby dismissed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

SD/- T. KRISHNA KUMAR
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

- To,
1. One CC to SRI. SYED AYESHA SABA ATTQ SOFIA Advocate [OPUC]
 2. Two CCs to GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT, High Court for the State of Telangana, at Hyderabad [OUT]
 3. One CC to SRI. S. SURENDER REDDY, SC FOR GWMC [OPUC]
 4. Two CD Copies
- B M
GJP

HIGH COURT

DATED:18/09/2024



JUDGMENT

WA.No.1103 of 2024

DISMISSING THE WRIT APPEAL WITHOUT COSTS