

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND TWENTY FOUR

PRESENT

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

WRIT APPEAL NO: 724 OF 2017

Writ Appeal under clause 15 of the Letters Patent against the order passed dated 25-10-2016 in W.P. No. 7753 of 2015 on the file of the High Court.

Between:

1. The State of Telangana, Rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2. The Special Officer and Competent Authority, Urban Land, Ceiling, III Floor, Chandra Vihar, Hyderabad
3. The District Collector, Ranga Reddy District at Khairtabad, Hyderabad
4. The Revenue Divisional Officer, Rajendranagar at Attapur, Hyderabad
5. The Deputy Collector and Tahsildar, Serilingampally, Mandal, Ranga Reddy District.

...APPELLANTS/RESPONDENT Nos. 1 to 5

AND

1. Mr. Rajendra Agarwal S/o. Late P.D. Agarwal, Occ: Business, R/o.Plot No.1088, Road No.55, Jubilee Hills, Hyderabad
2. Smt.Neelam Agarwal, W/o.Rajendra Agarwal, Occ: Service, R/o. Plot No.1088, Road No.55, Jubilee Hills, Hyderabad
3. Smt.Pramila Agarwal, W/o.Praveen Kumar Agarwal, Occ: House Wife, R/o.6-56/2/3, Opp. IDPL Factory, Kukatpally, Balanagar, Hyderabad
4. Alok Kumar Agarwal, S/o.C.C.Agarwal, Occ: Doctor, Rep.by, its GPA Praveen Kumar Agarwal, S/o.Late S.C.Agarwal, aged about 57 years, Occ: Business, R/o.Plot No.47, HUDA Heights, Jubilee Hills, Hyderabad
5. Praveen Kumar Agarwal, S/o.Late S.C.Agarwal, Occ: Business, R/o.Plot No.47, HUDA Heights, Jubilee Hills, Hyderabad
6. Mr.Girdharilal Agarwal, S/o.Late P.D.Agarwal, Occ: Business, R/o.Plot No.1088, Road No.55, Jubilee Hills, Hyderabad
7. The Commissioner, Hyderabad Metropolitan Development, Authority, Block A, District Commercial Complex, Tarnaka, Hyderabad

8. The Commissioner, Greater Hyderabad Municipal Corporation, CC Complex Tank Bund Road, Lower Tank Bund, Hyderabad
9. The Chief City Planner, O/o.Greater Hyderabad Municipal, Corporation, CC Complex Tank Bund Road, Lower Tank Bund, Hyderabad
10. M/s.Midwest (India) Industries Ltd., In Liquidation Rep. by its Official Liquidator, High Court, Hyderabad
11. The Station House Officer, Madhapur Police Station, Cyberabad, Ranga Reddy District

(Respondent No.7 to 11 are not necessary parties to this petition)

...RESPONDENTS

I.A. NO: 1 OF 2017(WAMP. NO: 1426 OF 2017)

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 orders of the Learned Single Judge dt. 25-10-2016 in W.P. No. 7753 of 2016 pending disposal of the main writ appeal.

IA NO: 1 OF 2024

Between:

1. Mr. Rajendra Agarwal S/o. Late P.D. Agarwal, aged about 54 years, Occ: Business, R/o.Plot No.1088, Road No.55, Jubilee Hills, Hyderabad
2. Smt.Neelam Agarwal, W/o.Rajendra Agarwal, aged about 52 years, Occ: Service, R/o. Plot No.1088, Road No.55, Jubilee Hills, Hyderabad
3. Smt.Pramila Agarwal, W/o.Praveen Kumar Agarwal, aged about 61 years, Occ: House Wife, R/o.6-56/2/3, Opp. IDPL Factory, Kukatpally, Balanagar, Hyderabad
4. Alok Kumar Agarwal, S/o.G.C.Agarwal, aged about 57 years, Occ: Doctor, Rep.by, its GPA Praveen Kumar Agarwal, S/o.Late S.C.Agarwal, aged about 64 years, Occ: Business, R/o.Plot No.47, HUDA Heights, Jubilee Hills, Hyderabad
5. Praveen Kumar Agarwal, S/o.Late S.C.Agarwal, aged about 64 years, Occ: Business, R/o.Plot No.47, HUDA Heights, Jubilee Hills, Hyderabad
6. Mr.Girdharilal Agarwal, S/o.Late P.D.Agarwal, aged about 52 years, Occ: Business, R/o.Plot No.1088, Road No.55, Jubilee Hills, Hyderabad – 33.

....PETITIONERS/RESPONDENTS 1 to 6

AND

1. The State of Telangana, Rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad.
2. The Special Officer and Competent Authority, Urban Land, Ceiling, III Floor, Chandra Vihar, Hyderabad
3. The District Collector, Ranga Reddy District at Khairtabad, Hyderabad

4. The Revenue Divisional Officer, Rajendranagar at Attapur, Hyderabad
5. The Deputy Collector and Tahsildar, Serilingampally, Mandal, Ranga Reddy District.

...RESPONDENT/APPELLANTS

6. The Commissioner, Hyderabad Metropolitan Development, Authority, Block A, District Commercial Complex, Tarnaka, Hyderabad – 500007.
7. The Commissioner, Greater Hyderabad Municipal Corporation, CC Complex Tank Bund Road, Lower Tank Bund, Hyderabad – 500029.
8. The Chief City Planner, O/o.Greater Hyderabad Municipal, Corporation, CC Complex Tank Bund Road, Lower Tank Bund, Hyderabad – 500029.
9. M/s.Midwest (India) Industries Ltd., In Liquidation Rep. by its Official Liquidator, High Court, Hyderabad.
- 10.The Station House Officer, Madhapur Police Station, Cyberabad, Ranga Reddy District.

...RESPONDENTS/RESPONDENTS

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 permit the petitioners to file the Copy of Gift Settlement Deeds, copies of TDR Certificates as material papers in W.A.No. 724 of 2017 with request to dispose of writ appeal in view of the proceedings of the commissioner communicated through letter 01/DC/F&B/RW/ACB/C-20 GHMC/2018 dated 18.07.2018 and the gift settlement deeds made by the petitioners bearing Document NO.16583 of 2018 dated 05.10.2018 and 18018 of 2018 dated 18.10.2018 in favor of commissioner GHMC in the interest of Justice.

**Counsel for the Appellants: SRI D.V. CHALAPATHI RAO,
GP FOR REVENUE (ASSIGNMENT)**

Counsel for the Respondent Nos.1 to 6: SRI C. HANUMANTHA RAO

**Counsel for the Respondent Nos.7 - 9: SRI K. RAVINDER REDDY,
S.C. FOR GHMC**

Counsel for the Respondent No.10 & 11: --

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.724 of 2017

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

This intra Court appeal is filed by the appellants, who are respondent Nos.1 to 5 in W.P.No.7753 of 2015, aggrieved by order dated 25.10.2016, passed by learned Single Judge in the said writ petition.

2. Heard Sri D.V.Chalapathi Rao, learned Government Pleader for Revenue(Assignment) and Sri C.Hanmantha Rao, learned counsel appearing on behalf of respondent Nos.1 to 6 and Sri K.Ravinder Reddy, learned Standing Counsel appearing on behalf of respondent Nos.7 to 9. No representation on behalf of respondent Nos.10 and 11.

3. The parties herein are referred to as arrayed in the writ petition for convenience.

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

4.1 The claim of the petitioners is that one M.Vittallayya was the owner and possessor of land to an extent of Acs.2.00 in Survey No.62 of Madhapur Village,

Serilingampally Mandal, Ranga Reddy District and he alienated the same to P.Nageshwar Rao, who is the Managing Director of respondent No.10-company and others through registered sale deed *vide* document bearing No.8881 of 1987, dated 07.12.1987. Respondent No.10-company has availed loan from bank and committed default in repaying the loan amount. Accordingly Reserve Bank of India filed Company Petition No.39 of 2000 before erstwhile High Court of Andhra Pradesh, Hyderabad wherein the Company Court in C.A.No.666 of 2003 appointed Official Liquidator by its order dated 22.09.2003 and directed the Official Liquidator to take possession of the assets of directors of respondent No.10-company and to put on sale including subject land in open auction on "as is where is and whatever there is" basis. Accordingly, the Official Liquidator conducted public auction wherein the petitioners have participated and were declared as highest bidders and purchased the subject property by paying total sale consideration of Rs.2,21,00,000/- and the Company Court by its order dated 17.11.2003 in C.A.No.666 of 2003 confirmed the sale in favour of the

petitioners, being highest bidders, through orders dated 09.12.2003 in C.A.No.2012 of 2003 and the Company Court directed the Official Liquidator to handover the possession of the subject property to the petitioners. Accordingly, Official Liquidator had executed sale deed bearing No.8405 of 2004, dated 12.02.2004 in favour of the petitioners and possession of the subject land was delivered to them and their names were mutated in revenue records, by the Tahsildar *vide* proceedings No.B/4584/2004, dated Nil.02.2005. Subsequently, the petitioners submitted application on 17.08.2009 for conversion and basing on the same, the State Government after calling reports from the Hyderabad Metropolitan Development Authority('HMDA' for brevity) and other authorities and having collected Rs.3,66,277/- towards development charges and publication charges under Section 15(3) & 15(4) of the HMDA Act, 2008, issued G.O.Ms.No.548, Municipal Administration & Urban Development (I) Department, dated 02.09.2009 changing the land use to an extent of 1767.51 sq.mtrs out of Acs.2.00 from recreation use to commercial use zone and the remaining land was kept for recreational use.

Thereafter, petitioners have made application dated 21.07.2010, for building permission and respondent No.8 *vide* proceedings Lr.No.523/CSC/TP11/WZ/2010/1454, dated 06.08.2010, informed the petitioners that subject land is covered by the provisions of Urban Land (Ceiling and Regulation) Act, 1976(for brevity 'ULC Act') and communicated the same through Lr.No.A4/1844/08, dated 01.05.2008 and further informed that the application could not be processed and advised the petitioners for taking necessary action. Thereafter, petitioners submitted another representation dated 20.12.2010 to respondent No.8 for grant of building permission, but respondent No.8 issued the proceeding *vide* letter Lr.No.523/CSC/TP11/WZ/2010/2612, dated 30.12.2010, directing the petitioners to submit NOC from respondent No.2 since the subject land is affected under the ULC Act. Thereafter, petitioners have submitted application dated 08.04.2013, before respondent No.2 for issuance of No Objection Certificate for the purpose of obtaining the building permission and respondent No.2 issued proceeding No.F1/A6/689/2013 in CC No.F1/4143/2004, dated 22.04.2013 advising the

petitioners to apply for regularization of the land in terms of G.O.Ms.No.747, Revenue (UC-I) Department, dated 18.06.2008 by paying requisite amount. Aggrieved by the above said proceedings, the petitioners have filed W.P.No.7753 of 2015.

4.2 Learned Single Judge of this Court allowed the writ petition only on the ground that the petitioners have purchased the property through auction conducted by the Company Court by paying valuable sale consideration and they are bonafide purchasers and the petitioners have acquired the property on 12.02.2004, whereas declarant i.e., M.Vittalaiah filed declaration on 11.11.2004 and the respondents initiated the proceedings under the ULC Act and passed the orders behind back of the petitioners and the State repealed the ULC Act on 27.03.2008 and by virtue of the repealed Act, obtaining NOC from the respondent authorities is not required. Learned Single Judge further held that the respondents have not issued any notice to the petitioners under Section 10(5) of the ULC Act as well Rule 5(2) of ULC Rules and the proceedings issued under the ULC Act are liable to be

declared as illegal and gross violation of the principles of natural justice.

4.3 Learned Single Judge has set aside the impugned memo issued by respondent No.2, dated 22.04.2013 and the impugned letter dated 30.12.2010, issued by respondent No.8 and directed respondent Nos.7 and 8 to process the building permission application of the petitioners dated 21.07.2010, in accordance with law, without insisting for NOC from respondent No.2. Aggrieved by the above said order, respondent Nos.1 to 5 have filed the present writ appeal.

5. Learned Government Pleader vehemently contended that the subject property is hit by the provisions of the ULC Act and the property purchased by the writ petitioners through registered sale deed dated 12.02.2004, is void as per the provisions of the Section 5(3) and Section 10(4) of the ULC Act and the petitioners have not questioned the proceedings dated 20.06.2005 and 06.01.2006 issued under ULC Act and the same have become final and the respondents have taken possession of the subject property on 14.03.2008. Unless and until

the petitioners have questioned the orders passed under the provisions of the ULC Act, they are not entitled to any relief and the learned Single Judge without properly considering the contentions of the respondents allowed the writ petition travelling beyond the scope of the writ petition.

6. *Per contra*, learned counsel appearing on behalf of the writ petitioners submits that learned Single Judge after considering the contentions of the respective parties and provisions of the ULC Act and also law allowed the writ petition by giving cogent reasons.

6.1. Learned counsel for the writ petitioners further submits that during the pendency of the writ appeal, State Government through Commissioner, Greater Hyderabad Municipal Corporation ('GHMC' for brevity) had addressed a letter No.01/DC/F&B/RW/ACP/C-20/GHMC/2008, dated 18.07.2018 to the petitioners informing that the GHMC has proposed for development of Durgam Cheruvu and widening of existing 40 feet road to proposed 100 feet wide road from Madhapur main road to Inorbit Mall near Hanging bridge and the Plot/Premises

in Survey No.62 of Madhapur Village is getting affected under Development (Beautification of Tank with Plantation, Landscaping, Walking and Cycling Tracks) of Durgam Cheruvu and also proposed 100 feet wide Road widening. In the said letter, it was mentioned by the Commissioner that an area of 9680 square yards out of petitioners' property in Survey No.62 of Madhapur Village is affected and Commissioner, GHMC had made request to handover the said affected portion of the property to GHMC and give consent under Section 146 of the GHMC Act, in the public interest and gave an undertaking to the petitioners that they will arrange the compensation to the petitioners in the form of TDR as per G.O.Ms.No.330, dated 28.12.2017. Pursuant to the said letter, the petitioners have given consent letter dated 20.08.2018 agreeing to take the benefits extended through G.O.Ms.No.168 dated 07.04.2012 and G.O.Ms.No.330 dated 28.02.2017. In pursuance to the same, petitioners had made gift settlement deeds dated 05.10.2018 and 18.10.2018 in favour of the Commissioner, GHMC transferring an extent of 9680 square yards and accordingly GHMC had issued TDR certificate dated

29.10.2018 and above said documents were enclosed along with I.A.No.1 of 2024 and learned counsel submits that by virtue of the subsequent developments, the cause in the writ appeal does not survive.

7. Learned Government Pleader by way of reply submits that the proceedings issued by GHMC are not binding upon respondent Nos.1 to 5.

8. Having considered the rival submissions made by respective parties and after perusal of the material available on record, it reveals that one M.Vittallayya was the owner and possessor of subject land and he alienated the same to P.Nageshwar Rao, who is the Managing Director of respondent No.10-company and others through registered sale deed dated 07.12.1987. Respondent No.10-company has availed loan from bank and committed default in repaying the loan amount. Accordingly Reserve Bank of India filed Company Petition No.39 of 2000 before erstwhile High Court of Andhra Pradesh, Hyderabad wherein the Company Court in C.A.No.666 of 2003 appointed Official Liquidator by its order dated 22.09.2003 and directed the Official

Liquidator to take possession of the assets of directors of respondent No.10-company and to put on sale including subject land in open auction on "as is where is and whatever there is" basis. Accordingly, the Official Liquidator conducted public auction wherein the petitioners have participated and purchased the subject property by paying total sale consideration of Rs.2,21,00,000/- and the Company Court by its order dated 17.11.2003 in C.A.No.666 of 2003 confirmed the sale through orders dated 09.12.2003 in C.A.No.2012 of 2003 and directed the Official Liquidator to handover the possession of the subject property to the petitioners. Accordingly, Official Liquidator had executed sale deed bearing No.8405 of 2004, dated 12.02.2004 in favour of the petitioners and possession of the subject land was delivered to them and their names were mutated in revenue records and petitioners submitted application for conversion of the land on 17.09.2008, basing on the same, the State Government after calling reports from the HMDA and other authorities and having collected Rs.3,66,277/- towards development charges and publication charges under Section 15(3) & 15 (4) of the

HMDA Act, 2008, issued G.O.Ms.No.548, Municipal Administration & Urban Development (I) Department, dated 02.09.2009 changing the land use to an extent of 1767.51 sq.mtrs out of Acs.2.00 of the subject land from recreation use to commercial use zone and the remaining land was kept for recreational use. Thereafter, the petitioners have made application on 21.07.2010 for building permission and respondent No.8 *vide* proceeding Lr.No.523/CSC/TP11/WZ/2010/1454, dated 06.08.2010, informed the petitioners that subject land is covered by the provisions of ULC Act and respondent No.2 issued proceeding No.F1/A6/689/2013 in CC.No.F1/4143/2004, dated 22.04.2013, advising the petitioners to apply for regularization of land in terms of G.O.Ms.No.747, dated 18.06.2008 by paying requisite amount. Questioning the said orders, the petitioners filed W.P.No.7753 of 2015.

9. Learned Single Judge allowed the writ petition holding that the petitioners have purchased the property on 12.02.2004 in auction in company proceedings whereas the declarant viz., M.Vittalaiah filed declaration

on 11.11.2004 under the ULC Act. Basing on the said declaration, the respondent authorities declared an extent of 73,462.38 square meters as surplus land on 08.04.2005 and passed orders on 20.06.2005 and 06.01.2006 without issuing any notice to the petitioners behind their back.

10. In so far as the other contention raised by the learned Government Pleader that the learned Single Judge travelled beyond the scope of the writ petition and allowed the writ petition by relying upon the principle laid down in ***Ranbir Singh Vs. Executive Engineer***¹ is concerned, pursuant to the public auction conducted in the Company proceedings, the Official Liquidator executed the registered sale deed dated 12.02.2004 in favour of the petitioners by receiving valuable sale consideration and the Revenue officials have mutated the names of the writ petitioners in the revenue records and thereafter respondents considered the claim of the petitioners for conversion of the subject land for non-agricultural

¹ (2011) 15 SCC 453

purpose and issued G.O.Ms.No.548, dated 02.09.2009 after collecting huge amounts.

11. The other contention of respondent Nos.2 to 4 that they have taken possession of the subject property on 14.03.2008 exercising the powers conferred under the ULC Act and the petitioners have not questioned the same is concerned, admittedly, respondent No.3 without giving any notice and opportunity to the writ petitioners passed orders under the ULC Act behind their back though they have purchased the property by paying valuable sale consideration in auction conducted in company proceedings even prior to submission of the declaration by the declarant.

12. It is also pertinent to mention here that during the pendency of the writ appeal, GHMC issued proceedings Lr.No.01/DC/F&B/RW/ACP/C-20/GHMC/2018, dated 18.07.2018 requesting the petitioners to give consent for land acquisition for proposed Development of Durgam Cheruvu and also for road widening and hand over the affected portion of the property in Survey No.62 of Madhapur Village to the GHMC. Accordingly, the

petitioners gave consent on 20.08.2018, agreeing to take the benefits as per G.O.Ms.No.168 dated 07.04.2012 and G.O.Ms.No.330 dated 28.12.2017 and by virtue of the same, respondents have taken possession of the subject land for the public purpose and issued TDR in favour of the petitioners as per the G.O.Ms.No.330 dated 28.12.2017.

13. For the foregoing reasons, this Court do not find any perversity or error in the impugned order passed by learned Single Judge to invoke the powers conferred under Clause 15 of the Letter Patents.

14. Accordingly, the writ appeal is dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

SD/- T. KRISHNA KUMAR
DEPUTY REGISTRAR

//TRUE COPY//

T.K.
SECTION OFFICER

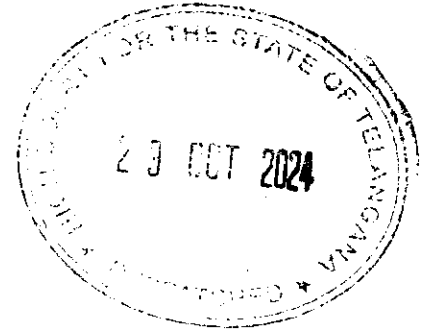
To,

1. Two CCs to SRI D.V. CHALAPATHI RAO, GP for Revenue (Assignment), High Court for the State of Telangana at Hyderabad [OUT]
2. One CC to SRI C. HANUMANTHA RAO, Advocate [OPUC]
3. One CC to SRI K. RAVINDER REDDY, S.C. for GHMC [OPUC]
4. Two CD Copies

MP
GJP \$

HIGH COURT

DATED:19/08/2024



JUDGMENT

WA.No.724 of 2017

**DISMISSING THE WRIT APPEAL
WITHOUT COSTS**

⑦ Copies

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