

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

**TUESDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY**

WRIT APPEAL NO: 833 OF 2022

Writ Appeal under clause 15 of the Letters Patent Appeal Preferred Against the Order Dated 07-12-2022, Passed in W.P. No. 44034 of 2022 on the file of the High Court.

Between:

M. Shashidharan Raju, S/o Late R. Muthu Swamy, Aged About 61 Years,
Occ: Business, R/o 2-6-194, Sikh Village, Secunderabad, Hyderabad District.

...WRIT APPELLANT

AND

1. The State of Telangana, Represented by its Principal Secretary, Municipal Administration And Urban Development Department, Secretariat, Hyderabad.
2. The Hyderabad Metropolitan Development Authority, Represented by its Commissioner, Hyderabad.

...RESPONDENTS

IA NO: 2 OF 2022

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 stay observation made by learned judge, while disposing writ Petition that, respondent No. 2 is not under obligation to notify Petitioner/appellant, if any, application is moved for building Permission.

Counsel for the Appellant: SRI M. RATHAN SINGH

**Counsel for the Respondents: AGP FOR MCPL ADMN & URBAN DEV
(SRI B. YADIAH)**

Counsel for the Respondents: SRI V. NARASIMHA GOUD (SC FOR HMDA)

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT APPEAL No.833 of 2022

JUDGMENT: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. M.Ratan Singh, learned counsel for the appellant; Mr. B.Yadaiah, learned Assistant Government Pleader appearing for respondent No.1; and Mr. V.Narasimha Goud, learned Standing Counsel appearing for respondent No.2.

2. This appeal is directed against the order dated 07.12.2022 passed by the learned Single Judge dismissing W.P.No.44034 of 2022 filed by the appellant as the writ petitioner.

3. Appellant had filed the related writ petition seeking a direction to Hyderabad Metropolitan Development Authority (HMDA) to consider the representation of the appellant dated 16.11.2022.

4. Appellant had filed the representation dated 16.11.2022 against any proposal to grant approval/sanction for construction in land admeasuring Acs.15.24 guntas in Survey No.13 and Acs.15.29 guntas in Survey No.14 situated at Ammuguda Village, Medchal-Malkajgiri District.

5. It was contended before the learned Single Judge that in respect of the aforesaid land, appellant along with others had filed a civil suit, being O.S.No.16 of 1998, which was dismissed by the learned II Additional District Judge, Ranga Reddy District on 23.02.2006, against which appellant and others had preferred an appeal. In the appeal there is an order directing the respondents therein not to alienate the property. In this connection, appellant had made the above representation. It was contended on behalf of HMDA that it was not under any obligation to issue notice to the appellant. HMDA was not a party to the suit. Therefore, any order passed therein is not binding on HMDA.

6. Having regard to the above, learned Single Judge took the view that this Court could not direct HMDA to issue a notice to the appellant. Accordingly, the writ petition was dismissed.

7. We find that issue raised in this writ appeal was gone into by this Court in W.A.Nos.513 and 516 of 2022 (**P. Subba Rao v. Hyderabad Metropolitan Development Authority**) decided on 17.11.2022. After examining the scope and ambit of Section 53 of the Hyderabad Metropolitan Development Authority Act, 2008, this Court took the view that there is no provision for raising objection to development permission or no objection certificate granted by HMDA. It has been held as follows:

16. On a careful scrutiny of Section 53 of the Act as well as other provisions thereof, we do not find that there is any provision for raising objection to development permission or no objection certificate granted by HMDA. Discretion is vested on the HMDA whether to grant development permission or not. While granting development permission, HMDA is not required to enter into disputed questions of title etc. If it is *prima facie* satisfied about the claim of the applicant seeking development permission, it can grant such permission.

17. Reverting back to the order dated 22.10.2021, we find that appellants had filed objection on 17.05.2018 to the building permission granted to M/s. Rishab Realtors and M/s.Raghuram. Explanation was called for from M/s.Raghuram on 11.10.2021. However, it was noted that such explanation was not received. Referring to sub-section (4) of Section 53 of the Act, it was stated that any development permission given under the Act is to be construed from the planned development point of view which would in no way either confirm ownership rights or affect the ownership under land revenue laws. It was further noted that there is no provision in the Act to enable a person to file objection before HMDA opposing grant of development permission. This has been judicially decided. Therefore, the objection filed by the appellants was not maintainable. Clarifying that development permission granted would not confer any title nor would it take away the right of any other person from over the subject land, it was clarified that the objector could approach the appropriate forum for redressal of grievance. Before concluding, Metropolitan Commissioner stated that appellants had filed similar complaint in 2017 which was examined, but was rejected.

8. We, therefore, do not find any merit in the appeal.

9. Before parting with the record there is one more aspect which we have noticed. Appellant had submitted the representation to HMDA on 16.11.2022. The writ affidavit annexed to the appeal memo discloses that it was

sworn on 28.11.2022, meaning thereby that the writ petition was filed on 28.11.2022.

10. Thus, the related writ petition came to be filed within twelve days of submission of the representation. It is trite law that a writ of mandamus must be preceded by demand and refusal. A period of twelve days for a public authority to look into a representation cannot be said to be a reasonable period. This aspect is also required to be looked into by the writ court before entertaining such a writ petition.

11. Writ appeal is accordingly dismissed.

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

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SD/-M.MANJULA
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. One CC to SRI M. RATHAN SINGH, Advocate [OPUC]
2. Two CCs to GP FOR MCPL ADMN & URBAN DEV (SRI B. YADIAH), High Court for the State of Telangana at Hyderabad [OUT]
3. One CC to SRI V. NARASIMHA GOUD (SC FOR HMDA) [OPUC]
4. Two CD Copies

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HIGH COURT

DATED: 27/12/2022

ORDER

W.A.No.833 of 2022



DISMISSING THE WRIT APPEAL
WITHOUT COSTS

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