
(2023) 02 TEL CK 0057
In the Telangana High Court
Case No : Writ Appeal No. 197 Of 2023

M/S Manbhum Construction Co Pvt Limited And Another	APPELLANT
Vs	
Konda Ravinder Reddy And 6 Others	RESPONDENT

Date of Decision : 14-02-2023

Acts Referred:

Citation : (2023) 02 TEL CK 0057

Hon'ble Judges : Ujjal Bhuyan, CJ;N. Tukaramji, J

Bench : Division Bench

Advocate : M.V. Pratap Kumar, V Narasimha Goud

Final Decision : Allowed

Judgement

1. Heard Mr. M.V.Pratap Kumar, learned counsel for the appellants; Mr. V.Narasimha Goud, learned counsel for respondents No.1 and 2; Mr. Pasham Krishna Reddy, learned Government Pleader for Municipal Administration and Urban Development Department appearing for respondent No.3; and Mr. M.Dhananjay Reddy, learned Standing Counsel for respondents No.4 to 6.
2. This appeal is directed against the order dated 23.09.2022 passed by the learned Single Judge disposing of W.P.No.36832 of 2022 filed by respondents No.1 and 2 as the writ petitioners.
3. Respondents No.1 and 2 had filed the related writ petition seeking a direction to the Greater Hyderabad Municipal Corporation (GHMC) and its officials to consider their representation dated 19.07.2022 and thereafter to withdraw the building permission granted in favour of the appellants. Further prayer made was for a direction to GHMC and its officials to dismantle the under-construction building of the appellants.
4. Learned counsel representing respondents No.1 and 2 had contended before the learned Single Judge that respondents No.1 and 2 had submitted a representation dated 19.07.2022 before GHMC for withholding building

permission. However, GHMC had granted building permission to the appellants on 16.03.2022. It was contended that land covered by building permission is in the waterbed area of Parikicheruvu and therefore it was clearly illegal, as the building permission was obtained by suppression of facts and misrepresentation.

5. Learned Standing Counsel for GHMC had submitted before the learned Single Judge that GHMC will consider the representation of respondents No.1 and 2 and thereafter pass appropriate orders.

6. Recording such submission of learned Standing Counsel, learned Single Judge passed the order dated 23.09.2022 disposing of the writ petition by directing GHMC and its officials to consider the representation of respondents No.1 and 2 and thereafter to pass an appropriate order in accordance with law within a period of six weeks. Learned Single Judge observed that since GHMC and its officials will issue notice to the unofficial respondents therein (appellants), issuance of notice to the appellants was not necessary.

7. Learned counsel for the appellants submits that appellants had lodged two caveats before this Court on 15.07.2022, being Caveat Nos.3902 and 3903 of 2022. While in Caveat No.3902 of 2022 respondent No.2 was arrayed as the respondent, in Caveat No.3903 of 2022, respondent No.1 was arrayed as the respondent. In both the caveats it was pointed out that the caveators were carrying out construction in the subject land pursuant to permission granted by the GHMC on 16.03.2022. Apprehension was expressed that respondents No.1 and 2 may file writ petition in this regard and hence caveats were lodged. Bypassing the two caveats and without issuing notice to the appellants, the writ petition was disposed of. He further submits that had the appellants been given an opportunity, they could have informed the learned Single Judge that two civil suits are pending before the parties wherein injunction order has been passed in favour of the appellants restraining respondents No.1 and 2 from interfering with the possession of the appellants over the subject land.

8. Mr. V.Narasimha Goud, learned counsel for respondents No.1 and 2 submits that the said respondents had no knowledge about lodging of caveats by the appellants. Had they knew about lodging of caveats, they would have certainly served a copy of the writ petition on the caveators. That apart, he submits that as per direction of the learned Single Judge, GHMC has issued notice to the appellants on 11.01.2023 pursuant to which appellants had appeared before GHMC on 28.01.2023 through video conference, but sought adjournment. The adjourned date was 10.02.2023 on which date appellants did not appear.

9. Be that as it may, we are of the view that the representation filed by respondents No.1 and 2 seeks demolition of the construction carried out by the appellants. Any direction by the Court to GHMC to consider such a representation would amount to a direction adverse to the appellants, as acceptance of such representation would lead to demolition of the construction. It was, therefore, necessary for learned Single Judge to have put the appellants, who were arrayed

as respondents No.6 and 7 in the writ proceeding, on notice and given an opportunity of hearing. Consequential notice and hearing by the GHMC cannot be a substitute for non-issuance of notice and non-affording of hearing by the writ Court. Sometimes, orders of Courts which appear to be innocuous are capable of serious mischief.

10. That being the position, we set aside the order dated 23.09.2022 passed in W.P.No.36832 of 2022 and remand the matter back to the file of the learned Single Judge for adjudication afresh in accordance with law. We make it clear that we have not expressed any opinion on merit and all contentions are kept open.

11. Since, we have set aside the order of the learned Single Judge, proceedings initiated by GHMC on the basis of the direction of the learned Single would be of no legal consequence.

12. Writ appeal is accordingly allowed.

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