

(2022) 01 TEL CK 0050
In the Telangana High Court
Case No : Writ Appeal No. 28 Of 2022

Sanskruithi Township

APPELLANT

Vs

State Of Telangana And 10 Others

RESPONDENT

Date of Decision : 31-01-2022

Acts Referred:

Telangana Gram Panchayat Land Development (Layout And Building) Rules, 2002 — Rule 23D

Telangana Municipalities Act, 2019 — Section 185

Citation : (2022) 01 TEL CK 0050

Hon'ble Judges : Satish Chandra Sharma, CJ; Abhinand Kumar Shavili, J

Bench : Division Bench

Advocate : Dr.Venkat Reddy, Donthi Reddy

Final Decision : Dismissed

Judgement

1. This Writ Appeal is filed aggrieved by the orders passed in W.P.No.8767 of 2021 dt.17-01-2022 wherein the learned Single Judge of this Court had

dismissed the said Writ Petition.

2. Heard Dr. Venkat Reddy Dontireddy, Counsel for the appellant, Government Pleader for Municipal Administration & Urban Development,

appearing for the 1st respondent, Sri N.Praveen Kumar, Standing Counsel for the 2nd respondent, Sri V.Narsimha Goud, Standing Counsel for the 3rd

respondent and Sri Srinivasa Rao Velivella, Counsel for 6th respondent.

3. It has been contended by the appellant that the appellant is a Sanskruthi Township represented by its Secretary and the grievance of the appellant is

that the 2nd respondent had issued notice on 01-04-2021 directing the appellants to remove the walls and gates of the appellant township within three days by giving access to internal roads of the closed township. Learned counsel

for the appellant had contended that the 2nd respondent has issued impugned notice under Section 185 of the Telangana Municipalities Act, 2019 treating the compound wall and gates erected around the township of the appellant as encroachments.

4. Learned counsel for the appellant had further contended that the appellant township was developed by the 4th respondent and at the time of allotment of the dwelling units as developed by the 4th respondent, it was clearly demarcated as a gated community and the 4th respondent had constructed a compound wall all around the appellant township and installed gates in order to regulate the ingress and outgress of the appellant township.

5. Challenging the impugned notice, the appellant had filed the Writ Petition before this Court and the learned Single Judge had dismissed the said Writ Petition vide orders dt.17-01-2022. Challenging the same, the present Writ Appeal is filed.

6. Learned counsel for the appellant had contended that all through the appellant township was treated as a gated community and the 2nd respondent in order to favour the unofficial respondents had issued the impugned notice and directing the appellant township to provide ingress and outgress to the neighbouring layouts. Therefore, learned counsel had contended that appropriate orders be passed in the Writ Appeal declaring the impugned notice issued by the 2nd respondent on 01-04-2021 as bad in law and accordingly set aside the same restraining the unofficial respondents from demolishing the compound wall and removing the gates of the appellant township.

7. Learned Government Pleader for Municipal Administration & Urban Development, appearing for the 1st respondent, Sri N.Praveen Kumar, learned Standing Counsel for the 2nd respondent, Sri V.Narsimha Goud, learned Standing Counsel for the 3rd respondent, had contended that the 4th respondent has requested the 3rd respondent to permit the 4th respondent to make the appellant township as a gated community but the request of the 4th respondent was rejected by the 3rd respondent by proceedings dt.25-04-2011 and the said rejection orders have become final and the 4th respondent nor the appellant has not challenged the said proceedings issued by the 3rd respondent and in the absence of any proceedings by the official respondents declaring the appellant township be treated as a gated

community, the appellant cannot treat the appellant township as a gated community and the learned Single Judge has rightly dismissed the Writ Petition preferred by the appellant. Therefore, there are no merits in the Writ Appeal and the same is liable to be dismissed.

8. Learned counsel for the respondent Nos.1 to 3 had further contended that as per Rule 23-D of the Telangana Gram Panchayat Land Development (Layout and Building) Rules, 2002, which deals with Gated Community Development, and sub clause (t) of the said Rules makes it very clear that the local body retains the right to declare any road as public road in the interest of overall connectivity and network in future. In exercise of its power, the respondents are taking steps to provide ingress and egress to the neighbouring layouts approved by the 3rd respondent.

9. Learned counsel for the official respondents had further contended that after developing the appellant township by the 4th respondent, the 4th respondent had handed over all the roads and public utility places including sub roads to the then Gram Panchayat on 08-12-2010 and all the roads in the appellant township and public utility places are under the control of Gram Panchayat and appellant township was never treated as a gated community and in the absence of any proceedings declaring the appellant township as a gated community, the appellant cannot prevent ingress and egress to the layouts which are abutting to the appellant township. Therefore, there are no merits in the Writ Appeal and the same is liable to be dismissed.

10. Learned counsel for the 6th respondent had further contended that the issue raised in the present Writ Appeal is squarely covered by the judgment rendered by a Division Bench of this Court in the case related to Koganti Venkata Suryanarayana v.State of Andhra Pradesh and others 2018 (3)

ALD 72 (DB), wherein a Division Bench of this Court has finally held as under:

“20. As public roads and open spaces, in sanctioned lay outs belong to the Gram Panchayat under Section 53(1) of the 1994 Act, and as

the 7th respondent, in compliance with the law, has gifted the public roads and open spaces to the 5th respondent-Gram Panchayat, their

action, in constructing compound walls and erecting gates, over these roads in the sanctioned lay out is evidently illegal. The justification

put forth by Sri C.V. Mohan Reddy, Learned Senior Counsel, is that the 7th

respondent has been paying huge amounts as house-tax and profession tax; and the only gate on the southern side, and one of the two gates on the northern side, were erected, as per the advice of the Police, as a measure of security.

28. The 7th respondent shall, within four weeks from today, remove the encroachments on the public roads and the open spaces in the sanctioned lay out, which they had earlier gifted in favour of the 5th respondent gram panchayat. In case the 7th respondent fails to do so, both the 5th respondent Gram Panchayat and the 4th respondent shall have the compound walls raised and the gates erected, over these public roads in the sanctioned layout removed, and the construction raised in open spaces demolished, within four weeks thereafter.â??

11. This Court having considered the rival submissions made by the parties is of the considered view that the official respondents have not issued any proceedings or order in favour of the appellant declaring the appellant township as a gated community and in the absence of any proceedings or orders declaring the appellant township as a gated community, the appellant cannot contend that the appellant township will be treated as gated community and the appellant should be permitted to retain the compound wall along with gates. On the other hand, the request made by the 4th respondent to treat the appellant township as a gated community was rejected by the 3rd respondent vide proceedings dt.25-04-2011 and the said proceedings had attained finality. The appellant nor the 4th respondent had never questioned the rejection orders dt.25-04-2011 and more over all the roads and public utility places were handed to the Gram Panchayat and the said Gram Panchayat was upgraded to that of 2nd respondent Municipality. So all the roads and public utility places of the appellant township are under the control of 2nd respondent and the 2nd respondent has rightly issued impugned notice directing the respondents to remove the compound wall and the gates and the learned Single Judge has rightly dismissed the Writ Petition preferred by the appellant township with a specific finding that there is no proceedings or orders in favour of the appellant whereby the appellant township was treated as a gated community. In the absence of any proceedings in favour of the appellant treating it as a gated community, no direction can be issued to the respondents to permit the appellant to retain the compound wall

and the gates.

12. Therefore, there are no merits in the Writ Appeal and the same is accordingly dismissed. Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.