

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
HYDERABAD
(Special Original Jurisdiction)



FRIDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND SEVEN

PRESENT:

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 23228 of 2007

Between:

P. Varalaxmi W/o. P. Ravinder Reddy,

..... Petitioner

AND

1. The Special Officer & Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund, Hyderabad.
2. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Kapra Municipality, Ranga Reddy District.
3. M/s. Modi Properties & Investments Pvt., Ltd., Rep. by its Managing Partner, 5-4-187/3,4, III rd Floor, M.G. Road, Secunderabad-500 003.
4. M/s. Reliance Communications Ltd., Rep. by its Manager, Lake Shore Towers, 6-3-1090/B/1, Raj Bhavan Road, Somajiguda, Hyderabad.
5. M/s J.T. Mobile Ltd. (Presently Airtel), rep. by Manager, Splendid Tower, Huda Road, Begumpet, Hyderabad-16
6. M/s Tata Communications Limited (Presently Idea), rep. by Manager, Khan Lateef Khan Bldg., Fathe Maidhan Road, Hyderabad-1
7. M/s Tala Teleservices and Cellular Limited, (Presently Tata Indicom), rep. by Manager, Khan Lateef Khan Bldg., Fathe Maidhan Road, Hyderabad-1
8. M/s Bharathi Mobile Limited, (Presently Airtel), rep. by Manager, Splendid Tower, Huda Road, Begumpet, Hyderabad-16
9. M/s Barakamba Sales and Service Limited, (Presently Vodafone), Nandavaram Complex, V.R. Nagar, S.R. Nagar X Road, Hyderabad-38
10. State of Andhra Pradesh, rep. by Principal Secretary to Govt., Municipal Administration Department, Secretariat, Hyderabad.

(Respondent No. 5 to 10 are impleaded Suo-Motto as per Court order dt: 16-11-2007 in WP. No. 23228/2007)

.....Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly a mandamus declaring the inaction, delay and negligence of the respondents 1 & 2 in taking the follow up action upon notice No. G2/884/07 dt. 20-9-07 under HMC Act 1955 as arbitrary, collusive, illegal, in violation of fundamental/human rights and principles of natural justice; and the non removal of said tower by respondents 3 & 4 as illegal, and consequently direct them to remove the illegally erected M/s. Reliance Communication's tower from the terrace of 5th floor, I-Block, May Flower Park, Mallapur GHMC Kapra Circle, as per the said notice.

The petition coming on for hearing upon perusing the petition and the affidavit filed herein and upon hearing the arguments of Sri Mohammed Zafarullah, Advocate for the Petitioner and of Sri Polisetty Radhakrishna, Standing Counsel for GHMC for the Respondents 1 and 2, and of Sri V.Venkata Ramana, Advocate for the Respondent No.3, and of the G.P. for Municipal Administration, for the Respondent No. 10, the Court made the following;

ORDER:

“Respondent Nos.1 and 2 filed a counter-affidavit, in which it is stated that respondent No.3 had shown them a memo bearing No. 2771/M1/2002-1 MA, dated: 27-02-2002 issued by the Government of Andhra Pradesh exempting M/s Reliance Communications Limited from all building regulations. This memo has also been filed along with material papers by Respondent No.3.

Prima facie, it appears that this memo itself is illegal, therefore, this Court would also like to go into the question of legality of this Memo during these proceedings. This memo also gives a reference to the other Government Memos, namely-

1. Govt. Memo No. 8436/M1/98-1, MA, dated: 16-04-1998.
2. Govt. Memo No. 5763/M1/2001, MA, dated: 10-05-2001.
3. Govt. Memo No. 20754/M1/01-1, MA, dated: 11-02-2002.

These Memos were issued with respect to the exemption granted to JT Mobile Limited, M/s Tata Communications Limited, Tata Teleservices and Cellular Limited, M/s Bharati Mobile Limited and M/s Barakamba Sales and Services Limited. All these Companies be made party-respondents to this writ petition and they shall be served through Special Messenger today.

It will be necessary to hear the State also in this matter and let the State represented by the Principal Secretary to Government, Department of Municipal Administration be made party-respondent to this writ petition. Learned Government Pleader for Municipal Administration takes notice on behalf of the State and he shall produce the Government Memos referred to above on the next date of hearing.

Learned Standing Counsel for respondent Nos. 1 and 2 had produced before this Court a copy of the inspection report prepared by the Industrial Consultancy Services, JNTU College of Engineering. We cannot make out anything from this inspection report as to whether the building is safe for human habitation or not. Therefore, let the Commissioner of the Greater Hyderabad Municipal Corporation file personally an affidavit taking a specific stand whether the building is safe for property and human beings or not. This affidavit shall also be filed by next date of hearing.


List on 19-11-2007.”

// TRUE COPY //

SD/-V. RAMAKRISHNA
ASSISTANT REGISTRAR
for ASSISTANT REGISTRAR

To

1. The Special Officer & Commissioner, Greater Hyderabad Municipal Corporation, Tank Bund, Hyderabad.
2. The Deputy Commissioner, Greater Hyderabad Municipal Corporation, Kapra Municipality, Ranga Reddy District.
3. The Managing Partner, M/s. Modi Properties & Investments Pvt., Ltd., 5-4-187/3,4, III rd Floor, M.G. Road, Secunderabad-500 003.
4. The Manager, M/s. Reliance Communications Ltd., Lake Shore Towers, 6-3-1090/B/1, Raj Bhavan Road, Somajiguda, Hyderabad.
5. The Manager, M/s J.T. Mobile Ltd. (Presently Airtel), Splendid Tower, Huda Road, Begumpet, Hyderabad-16
6. The Manager, M/s Tata Communications Limited (Presently Idea), Khan Lateef Khan Bldg., Fathe Maidhan Road, Hyderabad-1
7. The Manager, M/s Tala Teleservices and Cellular Limited, (Presently Tata Indicom), Khan Lateef Khan Bldg., Fathe Maidhan Road, Hyderabad-1
8. The Manager, M/s Bharathi Mobile Limited, (Presently Airtel), Splendid Tower, Huda Road, Begumpet, Hyderabad-16

9. M/s Barakamba Sales and Service Limited, (Presently Vodafone),
Nandavaram Complex, V.R. Nagar, S.R. Nagar X Road, Hyderabad-38
 10. The Principal Secretary, State of Andhra Pradesh, Municipal Administration
Department, Secretariat, Hyderabad.
(Sl. 1 to 10 BY SPL. MESSENGER)
 11. One CC to Polisetty Radhakrishan, Standing Counsel for GHMC, High
Court Bldgs., Hyderabad. (OPUC)
 12. One CC to Sri Mohammed Zafarullah, Advocate, (OPUC)
 13. Two CCs to G.P. for Municipal Administration, High Court of A.P.,
Hyderabad (OUT)
 14. Two Spare Copies
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HIGH COURT

**HACJ
&
RRJ**

DATE: 16-11-2007

NOTE: LIST ON 19-11-2007

ORDER

WP. NO. 23228 OF 2007

DIRECTION