

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE EIGHTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HON'BLE SMT JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO: 34072 OF 2022

Between:

M/s Santosh Dhaba Exclusive, 4-1-364/1 and 2, Jaya International Lane,
Hanuman Tekdi, Abids, Hyderabad. Represented by its Managing Partner
Sri. Sitaram Sankla.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Municipal Administration and Urban Development Department, Secretariat, BRKR Bhavan, Hyderabad.
2. The Managing Director, Hyderabad Metropolitan Water Supply and Sewerage Board Administrative Office Building Khairatabad, Hyderabad - 4
3. The General Manager (Engineering), HMWSSB, O and M Division No. IV, Red Hills, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ order or direction, more particularly one in the nature of writ of Mandamus, declaring the action of the 3rd respondent in issuing the impugned notice to the Petitioner vide Lr. No. HMWSandSB/OandM Div.IV/Legal Notice/ 2022-2023/1106 dt. 24/08/2022, under Sections 53 and 57 of the HMWSS Act, 1989, directing the petitioner to remove the encroachments/construction made on the sewer line covered with roof and construction of kitchen on the pipeline, within a period of one week, as illegal, arbitrary, violative of principles of natural justice. violative of Article 14 of Constitution of India and against all settled principles of law and consequently set aside the same.

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 impugned notice vide Lr. No. HMWS and S B/O and M Div. IV/Lega I Notice/ 2022-2023/1106 dt. 24/08/2022, issued by the 3rd respondent, pending disposal of main Writ Petition.

Counsel for the Petitioner : SRI BASA CHANAKYA

**Counsel for the Respondent No.1: GP FOR MUNICIPAL ADMINISTRATION AND
URABAN DEVELOPMENT**

**Counsel for the Respondent Nos.2 & 3: SRI G. NARENDER REDDY,
SC FOR HMWS&SB**

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No. 34072 OF 2022

ORDER:

This Writ Petition is filed seeking the following relief:

“ to issue writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the 3rd respondent in issuing the impugned notice to the petitioner vide Lr.No. HMWS&SB/O&M Div.IV/Legal Notice/ 2022-2023/1106 dt. 24.08.2022 under Sections 53 and 57 of the HMWSS Act, 1989 directing the petitioner to remove the encroachments / construction made on the sewer line covered with roof and construction of kitchen on the pipeline, within a period of one week, as illegal, arbitrary, violative of principles of natural justice, violative of Article 14 of Constitution of India and against all settled principles of law and consequently, set aside the same and pass such other orders or reliefs as this Hon'ble Court deems fit and proper in the interests of justice.”

2. Sri Chanakya Basa, learned counsel for the petitioner submits that notice dated 24.08.2022 was issued to the petitioner directing the petitioner to remove the encroachments made on the sewer line covered with roof and construction of kitchen on the pipeline within one week otherwise they will take appropriate action against the petitioner. He submits that the petitioner has not made any encroachment and apart from that before passing this order, the respondents have not issued any notice to the petitioner. According to the learned counsel, the notice impugned is

contrary to the principles of natural justice and on this ground alone, the said notice has to be set aside.

3. Sri G. Narender Reddy, learned Standing counsel for the 2nd respondent submits that he will come up with a counter-affidavit.

4. The order impugned shows that neither in the reference nor in the body, there is no reference to the show cause notice and it can be safely concluded that no notice is issued to the petitioner before passing the impugned order which is arbitrary and illegal.

5. Accordingly, the notice dated 24.08.2022 is hereby set aside giving liberty to the respondents to issue a show cause notice and pass appropriate orders in accordance with law. Till such time, the respondents shall not interfere with the petitioner's possession.

6. The Writ Petition is accordingly, allowed. No order as to costs.

7. The miscellaneous Applications, if any shall stand closed.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Municipal Administration and Urban Development Department, State of Telangana, Secretariat, BRKR Bhavan, Hyderabad.
2. The Managing Director, Hyderabad Metropolitan Water Supply and Sewerage Board Administrative Office Building Khairatabad, Hyderabad - 4
3. The General Manager (Engineering), HMWSSB, O and M Division No. IV, Red Hills, Hyderabad.
4. One CC to Sri Basa Chanakya, Advocate [OPUC]
5. Two CCs to GP for Municipal Administration and Urban Development, High Court for the State of Telangana at Hyderabad. [OUT]
6. One CC to Sri G. Narender Reddy, SC for HMWS&SB [OPUC]
7. Two CD Copies
8. One Spare Copy

HIGH COURT

DATED:18/10/2022

ORDER

WP.No.34072 of 2022



ALLOWING THE WP
WITHOUT COSTS

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ALMAS

02/11/2022