

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**WRIT PETITION No.13853 of 2022**

**ORDER:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. P.Venu Gopal, learned Senior Counsel represents Mr.Ch.Siddhartha Sarma, learned counsel for petitioners. Mr.K.R.Koteswara Rao, learned Sanding Counsel for respondent No.5. Mr.C.H.Jaya Krishna, learned counsel represents Mr.K.Ravinder Reddy, learned Standing Counsel for Greater Hyderabad Municipal Corporation.

2. The Writ Petition is admitted for hearing. With consent of the parties, the same is heard finally.

3. In this petition, the petitioners impugned the validity of the order dated 11.03.2022 passed by the Telangana State Human Rights Commission (hereafter referred to as 'the Commission'), by which, the Commission has directed the petitioners and the official respondents in the Writ Petition to supply water to Flat bearing No.101 situated on plot No.23, Venkat Rao Colony, Penderghast Road, Secunderabad.

4. Facts giving rise to the filing of this Writ Petition briefly stated are that, petitioner Nos.1 and 2 were owners of plots

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bearing Nos.22 and 23 measuring 355.5 sq. yards at Penderghast Road, Secunderabad. The petitioners decided to construct a residential complex. The Greater Hyderabad Municipal Corporation(hereinafter referred to as 'GHMC'), by an order dated 21.04.2019 granted building permission to the petitioners, which was valid up to 21.04.2022. It is the case of the petitioners that strictly in accordance with the building plan they have raised the construction of residential complex.

5. Petitioners entered into an agreement for sale of Flat No.101 with respondent No.5 for a consideration of Rs.58,28,200/-. Admittedly, in pursuance of the aforesaid agreement of sale, sale deed has not been executed in favour of respondent No.5 and a suit seeking the relief of specific performance of contract filed by respondent No.5 is pending adjudication.

6. It is also not in dispute that no Occupancy Certificate in respect of the residential complex in question has been issued by the GHMC. Respondent No.5, who claims to be in possession of Flat No.101, filed a petition before the Commission seeking a direction to the petitioners and the

official respondents to provide water connection and supply of electricity to the building in question.

7. The Commission, by an order dated 11.03.2022 directed the petitioners and official respondents in the Writ Petition to supply water to the flat, which was alleged to be in occupation of respondent No.5.

8. In the aforesaid factual background, this Writ Petition has been filed.

9. Learned Senior Counsel for petitioners submitted that the impugned order is *per se* without jurisdiction, as serious disputes with regard to right, title and interest in respect of flat in question, *viz.*, Flat No.101, are pending between the petitioners and respondent No.5 in two Civil Courts, out of which, one is Original Suit filed for specific performance of contract. While referring to Section 12 of the Protection of Human Rights Act, 1993, it is further contended that the Commission has no power to pass such an order.

10. On the other hand, learned Standing Counsel for the Commission has supported the order passed by the Commission.

11. Learned counsel for respondent No.5 submitted that the question of title is not involved in the proceedings before the Commission and since only right of respondent No.5 to receive water was under consideration, the Commission was well within its rights to pass the order impugned in this Writ Petition.

12. We have considered the rival submissions made on both sides.

13. Admittedly, respondent No.5 has filed a Civil Suit seeking the relief of specific performance of contract. Learned counsel for respondent No.5 is unable to point out that any Occupancy Certificate was issued in respect of the building in question or that pursuant to the agreement for sale, any sale deed has been executed in his favour. It appears that dispute relating to right, title and interest in respect of Flat No.101 is pending adjudication between the petitioners and respondent No.5.

14. The Hon'ble Supreme Court in **G.Manikyamma v. Roudri Cooperative Housing Society Limited**<sup>1</sup>, has taken note of Section 12 of the Protection of Human Rights Act, 1993, which deals with functions of the Commission. The Hon'ble Supreme Court in paragraph 44 of the said decision held as under:

“44. The functions and powers of the Commission are enumerated under Section 12 of the Protection of Human Rights Act, 1993, which reads as follows:

“12. **Functions of the Commission.**—The Commission shall perform all or any of the following functions, namely—

- (a) inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf, into complaint of—
  - (i) violation of human rights or abetment thereof; or
  - (ii) negligence in the prevention of such violation, by a public servant;
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
- (d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights, through publications, the media, seminars and other available means;

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<sup>1</sup> (2014) 15 SCC 197

- (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the promotion of human rights.”

It can be seen from the language, there is nothing in Section 12 which authorises the Human Rights Commission to adjudicate upon the disputes of title and possession of property.”

15. In view of the aforesaid enunciation of law, it is evident that the dispute pertains to title of the property as well as the right of respondent No.5 to claim electricity and water connection in respect of the subject building, which is pending adjudication in a Civil Suit, cannot be entertained by the Commission.

16. In view of the preceding analysis, the order dated 11.03.2022 passed by the Commission is *per se* without jurisdiction and the same is hereby quashed. However, liberty is reserved to respondent No.5 to take recourse to such remedy as may be available to him in law with regard to his right to seek electricity or water connection in respect of the Flat in question.

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17. With the aforesaid liberty, the Writ Petition is disposed of.

No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

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**ALOK ARADHE, CJ**

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**T. VINOD KUMAR, J**

Date: 17.08.2023

*GJ/GRA*

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