

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.32847 of 2022

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

Mr. M. Achuta Reddy, learned counsel for the petitioner.

Learned Government Pleader for Municipal Administration for respondent No.1.

Ms. Ch. Archana, learned Standing counsel for respondent No.2.

Mr. N. Praveen Kumar, learned Standing counsel for respondent No.3.

2. In this writ petition, the petitioner has assailed the validity of order dated 21.07.2022 passed in H.R.C.No.10598 of 2016 by which the Telangana State Human Rights Commission, Hyderabad (hereinafter referred to as "the Commission") has directed the municipal

::2::

authorities to demolish the property belonging to the petitioner.

3. The facts giving rise to filing of this writ petition briefly stated are that the petitioner is an agriculturist and is having cattle shed and dairy farm at the premises of his house in Basavannagadda Colony, Wanaparthy District for past about 25 years. The petitioner and his family members are dependent on the income earned from the cattle shed and dairy farm. Respondent No.4, who happens to be the neighbor of the petitioner, made a complaint to the Commission stating that since the petitioner is maintaining dairy farm, the foul smell coming from the premises is leading to diseases in the locality. The Commission thereupon by entertaining the complaint of respondent No.4 by order dated 21.07.2022 directed the municipal authorities to demolish the property of the petitioner. In the aforesaid factual background, this petition is filed.

4. Learned counsel for the petitioner submits that the impugned order passed by the Commission *per se* is without any jurisdiction.

5. On the other hand, learned counsel for the Commission has supported the order passed by the Commission.

6. We have considered the rival submissions made on both sides and perused the record.

7. The Hon'ble Supreme Court in **G.Manikamma v. Roudri Cooperative Housing Society Limited**¹ has taken note of Section 12 of the Protection of Human Rights Act, 1993 (hereinafter referred to as "the Act, 1993"), which deals with functions of the Commission, and held in paragraph 44 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;

¹ (2014) 15 SCC 197

(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;

(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.

::5::

8. Thus, in view of the aforesaid enunciation of law by the Hon'ble Supreme Court, it is evident that Section 12 of the Act, 1993, does not confer any power on the Commission to direct demolition of property.

9. The power to order demolition vests in the authorities under the statute and not covered by the Act, 1993. The impugned order is therefore *per se* without jurisdiction and the same is hereby quashed. Respondent No.4 is granted liberty to take recourse to such remedies as may be available to her in law with regard to her grievance, if any.

10. Accordingly, the writ petition is allowed.

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

ALOK ARADHE, CJ

T. VINOD KUMAR, J

Date: 14.08.2023
ES