

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

**AND**

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

**WRIT PETITION No.43467 of 2022**

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

Mr. S.V.S.Chowdary, learned counsel for the petitioners.

None for the respondents, though served.

2. In this writ petition, petitioners have assailed the validity of the order dated 22.11.2022 passed by the Telangana State Human Rights Commission (hereinafter referred to as, 'the Commission') in H.R.C.No.4858 of 2022.

3. The relevant facts need mention which are stated infra. Petitioners claim to be the owners of land in Survey Nos.107/AA and 107/EE situated at Kokapet Village, Gandipet Mandal, Ranga Reddy District. According to the petitioners, they have entered into an agreement with the developer and builder to construct villas on their land. It is the case of the petitioners that under the agreement

entered by the petitioners with the developer, Plot No.23, Villa No.23 situated in Survey Nos.107/AA & 107/EE (hereinafter referred to as, 'the schedule property') has gone to the share of the petitioners. Thereafter, the petitioners claim that they are in possession of the schedule property.

4. Respondent No.2 claims that he was allotted the schedule property by the developer under an oral agreement and that he is in possession of the same. Respondent No.2 filed a complaint before the Commission requesting for a direction to the police authorities to take necessary action.

5. Thereupon, the Commission, by an *ex parte* order dated 22.11.2022, directed issuance of notice to the petitioners and also directed that *status quo* with regard to the schedule property shall be maintained. Respondent No.2, in addition, was granted the liberty to file a complaint before the Station House Officer of Narsingi Police Station and the concerned police officer was directed to take action, if such a complaint is filed. Respondent No.2 was

also granted the liberty to approach the civil court by filing the civil suit.

6. Petitioners thereupon have filed the writ petition impugning such order of the Commission.

7. This Court by an order dated 02.12.2022 had directed issuance of notice to the respondents and had stayed the impugned order passed by the Commission.

8. Learned counsel for the petitioners submits that the order passed by the Commission is *per se* without jurisdiction. In support of his submission, learned counsel for the petitioners has placed reliance on the decision of the Hon'ble Supreme Court in **G.Manikyamma v. Roudri Cooperative Housing Society Limited**<sup>1</sup>.

9. We have considered the submissions made by learned counsel for the petitioners.

10. The Hon'ble Supreme Court in **G.Manikyamma** (supra) has taken note of Section 12 of the Protection of

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

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;

(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.

11. Thus, in view of the aforesaid enunciation of law by the Hon'ble Supreme Court, it is evident that Section 12 of the Protection of Human Rights Act, 1993, does not authorise the Commission to adjudicate upon the disputes of title and possession of the property.

12. Therefore, the order passed by the Commission dated 22.11.2022 is *per se* without jurisdiction and cannot be sustained in the eye of law.

13. In the result, the impugned order is quashed and the writ petition is allowed.

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

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**ALOK ARADHE, CJ**

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**T.VINOD KUMAR, J**

02.08.2023

vs