

THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

W.P.NO. OF 2020

BETWEEN:

1. A. Eswara Rao S/o Late Satya Rao,
Aged about 63 years, Occ : Retired Govt Employee,
R/o Flat no 13, SK Towers,
Begumpet, Hyderabad-500016.
2. K. Siva Sankar S/o Late K.S Sri Das,
Aged about 40 years, Occ : IT Professional,
R/o Flat no 14, SK Towers,
Begumpet, Hyderabad-500016.
3. B. Sankara Rao S/o Late B. Malla Rao,
Aged about 39 years, Occ : Chartered Accountant,
R/o Flat no 12, SK Towers,
Begumpet, Hyderabad-500016.
4. K. Shantan Rao S/o Late K. Dinakar Rao,
Aged about 31 years, Occ : Advocate,
R/o Flat no 11, SK Towers,
Begumpet, Hyderabad-500016.
5. G.L. Sreenivas S/o Late G.S Sudha Rao,
Aged about 46 years, Occ : Business,
R/o Flat no 9, SK Towers,
Begumpet, Hyderabad-500016.
6. A. Kiran Kumar S/o Late A. Sashidhar Rao,
Aged about 47 years, Occ : IT Professional,
R/o Flat no 14, SK Towers,
Begumpet, Hyderabad-500016.
7. M. Srinivas Reddy S/o M. Anna Reddy,
Aged about 45 years, Occ : IT Professional,
R/o Flat no 15, SK Towers,
Begumpet, Hyderabad-500016.
8. Ch. Ravindranath S/o Ch. Appa Raju,
Aged about 39 years, Occ : Chartered Accountant,
R/o Flat no 12, SK Towers,
Begumpet, Hyderabad-500016.
9. G. Shyam Sunder S/o M. Sarang,
Aged about 38 years, Occ : Bank Employee,
R/o Flat no 16, SK Towers,
Begumpet, Hyderabad-500016.
10. Jatin Joshi S/o Late Joshi,
Aged about 36 years, Occ : Business,
R/o Flat no 10, SK Towers,
Begumpet, Hyderabad-500016

..PETITIONER

AND

1. The State of Telangana,
Rep., by its Principal Secretary,
Municipal Administration and Urban
Development Department, Secretariat,
Hyderabad.
2. The Greater Hyderabad Municipal Corporation,
Lower Tank Bund, Hyderabad,
Rep., by its Commissioner.
3. The Deputy Commissioner,
Circle-30, GHMC Begumpet.
4. The Chief City Planner,
GHMC, Hyderabad (HO).
5. The Deputy City Planner,
GHMC, Hyderabad (HO).
6. Zonal City Planner,
Town Planning Section,
Secunderabad Zone,
GHMC.
7. Commissioner of Police,
Hyderabad Police Commissionerate.
Hyderabad.
8. SHO Begumpet Police Station.
Begumpet Rd, Police Lines, Motilal Nehru Nagar,
Begumpet, Hyderabad, Telangana 500016.
9. M/s Sri Inc
Represented by it's Managing Partner Sri Vijay Kumar,
S/o Sri. Y. Shankaraiah, Aged about 42 years, Occ : Business,
Having it's registered office, Cyber Colony, Hyderabad.
10. Kontham Madhusudhan Rao S/o Late K. Swamy,
Aged about 74 years, Occ : Business,
R/o, High Sky Apartment,
Kavadiguda, Secunderabad.
11. Kontham Narsing Rao S/o Late K. Swamy,
Aged about 72 years, Occ : Business,
R/o, West Maredpally,
Secunderabad.
12. Kontham Chandrashekar S/o Late. K. Swamy,

Aged about 65 years, Occ : Business,
R/o Ram Nagar colony, West Marredpally,
Secunderabad.

13. Kontham Venu S/o Late. K. Swamy,
Aged about 55 years, Occ : Business,
R/o Moorthy Colony,
Secunderabad.
14. Kontham Sunil S/o Late K. Narayan Rao,
Aged about 52 years, Occ : Business,
R/o. Plot No 50, Road No.4 Threemoorthy Colony,
Mahendra Hills, East Marredpally, Secunderabad.
15. Kontham Tarun Kumar S/o Late K. Jaipal,
Aged about 34 years, Occ : Business,
R/o Plot No.7, Brooke Bond Colony, Kharkhana,
A.O.C Gate, Secunderabad.
16. Kontham Karthik, S/o Late K. Srinivas,
Aged about 28 years, Occ : Business,
R/o Plot No. 62, Road No.4 Threemoorthy Colony,
Mahendra Hills, East Marredpally, Secunderabad.
17. Bhargavarama Developers LLP,
Represented by its partners,
Sri A.V Ravindranath S/o Late A. Natarajan,
Aged about 59 years, Occ : Business
&
Sri Natarajan Amancharala S/o A.V Ravindranath,
Aged about 31 years, Occ : Business
Having their office at #A1, Nitya Nivasam,
2-2-1119/1, Above Indian Bank, Prashant Nagar,
New Nallakunta, Hyderabad, Telangana.

....RESPONDENTS

AFFIDAVIT

I, Bora Sankara Rao S/o B. Malleswara Rao, Aged about 39 years, Occ : Chartered Accountant, R/o 1-20-373 to 388, Flat No. 312, SK Towers, Brahmanwadi, Begumpet, Hyderabad-500016 do hereby solemnly affirm and sincerely state on oath as follows:

1. I am the deponent herein and Petitioner No.3 in the above writ petition and as such I am well acquainted with the facts of the case and I am able to depose as under. I am also deposing on behalf of Petitioners No. 1, 2 and 4 to 10.
2. I submit that the present writ petition is filed questioning the action of Respondents No. 1 to 6 in considering the representation dated 10.03.2020 made by the Petitioners herein against Respondents No. 10 to 16 as illegal, arbitrary and highhanded and violative of Articles 14 of Constitution of India and with the

consequent prayer to direct Respondents No. 1 to 6 not to award building permission to Respondents No. 10 to 17 herein.

3. It is submitted that the Petitioners herein are the owners and possessors of several apartments in “SK TOWERS” bearing municipal No. 1-10-373 to 1-10-388, situated at Brahmanwadi, Begumpet, Hyderabad. It is submitted that the petitioners became the owners and possessors of apartments in the above named “SK TOWERS” through various sale deeds executed by Mr. K. Narsingh Rao and 14 others belonging to the Kontham family represented by their G.P.A Holder who is Respondent No.9 herein.
4. It is submitted that originally Respondents No. 10 to 14 and 10 others belonging to the Kontham family were the absolute owners and possessors of premises bearing No. 1-10-373 to 1-10-388 admeasuring 16,489 sq yards situated at Brahmanwadi, Begumpet, Hyderabad having purchased the same from J.S Satish S/o J.V Suresh, J.S Suresh S/o J.S Satish and J.S Aparna D/o J.S Satish through eight separate registered sale deeds vide document nos 2129 of 2005 dated 26.11.2005, 2131 of 2005 dated 08.12.2005, 2133 of 2005 dated 25.11.2005, 2134 of 2005 dated 30.11.2005, 2135 of 2005 dated 29.11.2005, 2137 of 2005 dated 29.11.2005 and 2139 of 2005 dated 08.12.2005 and 1431 of 2015 all registered in SRO, Secunderabad. Subsequently Respondents No. 10 to 14 and 10 others Development Agreement cum Irrevocable General Power of Attorney with Respondent No.9 herein vide registered vide document no. 1481 of 2006 dated 10.07.2006 registered in SRO, Secunderabad to construct a multi storeyed building over land admeasuring 7750 square yards.
5. It is submitted that Respondent No.9 obtained permission for construction of a residential apartment from GHMC, Hyderabad through file no. 519/CSC/TP-7/2007 vide permit no. 176/66 dated 31.10.2009. It is submitted that an extent of 1179 sq yards out of the total extent of 7750 sq yards was surrendered for the purpose of road widening. It is submitted that as per the Development Agreement cum Irrevocable General Power of Attorney dated 10.07.2006, Respondent No. 9 was entitled to 60% of the entire undivided share which amounts to 4650 sq yards and the owners namely Respondents No. 10 to 15 and 10 others were entitled to 40% of the entire undivided share amounting to 3100 sq yards respectively. Accordingly 98 flats were constructed as per the sanctioned plan after the completion of construction, Respondent No.9 obtained occupancy certificate vide CSC Occupancy No. 56632/07/08/2014/HO dated 13.10.2014 from Respondent No.2 with zero deviations and the apartments were occupied by owners and

possessors from 2014 onwards. It is submitted that a sum total of 40 apartments out of the total of 98 apartments fell to the share of Respondents No. 10 to 14 and 10 others. It is submitted that Respondents No. 10 to 14 and 10 others sold 8 apartments out of the total of 40 and retained 32 apartments in “SK TOWERS”. It is submitted that the remaining 58 apartments that fell to the share of Respondent No.9 were sold off to several buyers. The Petitioners herein some of the several buyers of the apartments.

6. It is submitted that the Kontham family members are also owners of land to an extent of 4300 sq yards bearing H.No. 1-10-373 to 1-10-388 forming a part of Sy No. 209 situated at Brahmanwadi, Begumpet village. This land is bound by Nala on the north, “SK TOWERS” on the south, East & West by neighboring lands. It is submitted that the land above mentioned does not have any road access on either 4 sides as it is bound by nala on one side and neighboring lands on all the other 3 sides. It is submitted that the being aware of the above scenario, Respondents No. 10 to 16 entered into a development agreement cum general power of attorney with Respondent No. 17 for the construction of a multi storied residential apartment comprising of 50 apartments vide document no. 196 of 2020 dated 30.01.2020.
7. It is submitted that on perusal of the development agreement cum general power of attorney entered into between Respondents No. 10 to 16 and Respondent No. 17 it can be observed that in the schedule of the property it is mentioned that towards south of the property the land under development shares a common driveway with “SK TOWERS”. It is submitted that the same is a blatant lie and in reality Respondents No. 10 to 16 do not have right over the access to the drive away in “SK TOWERS”. It is submitted that as per the Development Agreement cum Irrevocable General Power of Attorney dated 10.07.2006 entered into by Respondents 10 to 14 and 10 others and Respondent No.9, no rights were reserved to Respondents No. 10 to 14 and 10 others to use any approach road through “SK TOWERS” to approach their land situated to the north of “SK TOWERS”.
8. It is submitted that Respondents No. 10 to 14 and 10 others who are the owners of the land, do not have any right to use the common drive way of “SK TOWERS” as an approach road to their land located to the north of “SK TOWERS”. However Respondents No. 10 to 14 have intentionally misrepresented the same

stating that they share a common driveway with “SK TOWERS” in the development agreement cum general power of attorney entered into between them and Respondent No. 17 vide doc no. 196 of 2020 dated 30.01.2020.

9. As everything stood thus, an email was received by the SK Towers Owners Welfare Association on 02.02.2020 from the Vice President of the welfare association informing the association that Respondents No. 10 to 16 want to finish ground clearance of their land situated to the north of “SK TOWERS” for which they require access from SK TOWERS” to their land. It is submitted that the welfare association of which the petitioners are a part of replied immediately stating that the same must be discussed by the committee and in the mean time no JCB or men can be sent for any work on their land.
10. It is submitted that on 10.02.2020 to the surprise of the Petitioners, a partner of Respondent No. 17 along with several henchmen brought one JCB to start the ground clearance work despite no permission from the association of “SK TOWERS”. It is submitted that they entered the apartment by force despite being resisted by the security of “SK TOWERS” and finished the ground clearance of their land by using the common drive way of “SK TOWERS” to access their land situated to the north of “SK TOWERS”. It is submitted that one of the three entrance gates of “SK TOWERS” was locked by them along with a chain. It is submitted that they had arrived again on the next day, however permission was denied once again.
11. It is submitted that a meeting was also held on 16.02.2020 to mediate between Respondents No. 10 to 16 and other owners and residents of “SK TOWERS”. However the mediation process did not prove to be successful as they refused to listen to our grievances. Furthermore our requests to remove the lock on one of the entrance gates and to repair a gate which was damaged due to the activity of the JCBs were also given a deaf ear. It is submitted that having no other alternative, several owners of “SK TOWERS” gave a representation to Respondents No. 7 and 8 on 23.02.2020 and obtained an acknowledgement for the same. However no complaint was registered till date. It is submitted that written representations dated 10.03.2020 along with all relevant documents were also given to Respondents No. 2 to 6 duly signed by 52 owners of “SK TOWERS.
12. It is submitted that once again on 21.03.2020 one Mr. Naresh Kumar who is the Vice President of the Owners Welfare Association and who represents the Kontham family and Respondents No. 10 to 16 along with several henchmen

entered our apartment complex with brutal force by breaking the entrance gates installed at two stages within the apartment complex. Upon attempts to resist the same, several owners and residents were physically abused. Several attempts were made on the same day by them to threaten and scare the petitioners and other residents. The same was witnessed by several police personnel who were present. It is submitted that yet again the petitioners and other owners of “SK TOWERS” approached Respondent No.8 to file a complaint of trespass against Respondents No. 10 to 16. However to their surprise, Respondents No. 10 to 16 were present in the police station. Respondent No. 8 did not register our complaint and in turn asked us to settle the matter. Despite our repeated requests Respondent no.8 did not register our complaint despite the same being their duty. It is submitted that work in the land of Respondents No. 10 to 16 continued the entire day using the approach road and common driveway of “SK TOWERS”. It is submitted that they also installed a barricade within the premises of “SK TOWERS” within a short distance from the gate separating “SK TOWERS” and the land belonging to Respondents No. 10 to 16.

13. It is submitted that Respondents No. 10 to 16 also installed CCTV Cameras on all the four boundary walls of our apartment intruding into our privacy and also to keep a watch on all our daily activities which is completely violative of our right to privacy and right to a peaceful living. It is submitted that on the very next day i.e. on 22.03.2020, Janata Curfew was declared and subsequently lockdown was ordered as per the Epidemic Diseases Act, 1897. It is submitted that due to the curfew imposed, Respondents No. 10 to 17 did not resume any construction or clearance activities thereafter.
14. It is submitted that to the surprise of the Petitioners and the residents of “SK TOWERS”, Respondents No. 10 to 17 once again on 07.05.2020 entered “SK TOWERS” with a JCB and several henchmen to resume construction activity. It is submitted that this is a complete violation of our rights specified in the Development Agreement cum Irrevocable General Power of Attorney dated 10.07.2006. It is submitted that “SK TOWERS”, has a settlement of 98 families in total with individuals of different age groups. It is submitted that there are several young children and senior citizens who use the common pathways of the building especially the basement and the parking areas for their recreational activities. It is submitted that Respondents No. 10 to 17 are harassing the residents of the building by using the approach road situated within “SK TOWERS”, for the entry of heavy machinery and vehicles along with several laborers disrupting the peace

of the residents and making the entrance to apartment very dangerous and unsafe to children and senior citizens causing inconvenience and nuisance to the residents of “SK TOWERS”.

15. It is submitted that Respondents no. 10 to 16 have no right whatsoever over the common pathway to their land and therefore a duty is cast upon them to find an alternative approach to their land and not use the driveway of “SK TOWERS”, for the same. It is submitted that despite several representations made by the Petitioners no action was taken by Respondents No.2 to 8 even though the representations made by the petitioners were received by them. It is submitted that Respondents No. 2 to 6 received the representation made by the Petitioners on 12.03.2020 itself but however no action was taken till date. The Respondents No. 2 to 6 being public authorities are bound to act in accordance with law and are required to take action against Respondents No. 10 to 17 . However, the authorities failed to take any action for the reasons best known to them. In view of the above, the Petitioner herein is left with no other option other than approaching this Hon’ble Court seeking indulgence of this Hon’ble court to direct Respondents No. 2 to 6 to withdraw recognition given to Respondent No. 7 for violation of the statutory norms. In these circumstances, until and unless this Hon’ble court considers the case of the Petitioner and direct the Respondent No. 2 to 6 not to award building permission to Respondents No. 10 to 17 in accordance with law, else the Petitioner would be put to irreparable loss and injury which cannot be compensated in any manner.

16. In view of the above, the Petitioner is left with no other alternative efficacious remedy except to approach this Hon’ble court, by way of this writ petition under Article 226 of Constitution of India.

17. The Petitioner has not filed any other writ or proceedings in any court of law with regard to the above cause of action against the Respondents herein and to the best of their knowledge, no writ or proceedings are pending in any court of law except to the extent stated above.

For the reasons sated above and those reasons those may be adduced at the time of hearing, it is prayed that this Hon’ble court may be pleased to grant an order or direction or writ, more so in the nature of writ of mandamus declaring the inaction of the Respondent No. 2 to 6 in considering the representation dated 10.03.2020 made by the Petitioners herein against Respondents No. 10 to 17 as illegal, arbitrary and

highhanded and violative of Articles 14 of Constitution of India and with the consequent prayer to direct Respondents No. 2 to 6 not to award building permission to Respondents No. 10 to 17 herein.

For the reasons stated above and those reasons those may be adduced at the time of hearing, it is prayed that this Hon'ble court may be pleased to grant an order or direction or writ, more so in the nature of writ of mandamus to direct :

- a) Respondents No. 2 to 6 to stop the construction activities being conducted by Respondents No. 10 to 17.
- b) Respondents No. 7 and 8 to register a complaint against Respondents No. 10 to 17 for criminal trespass.
- c) Respondents No. 7 and 8 to provide assistance and protection to the petitioners pending the writ petition.
- d) and pass such other order or orders as this Hon'ble court deems fit and proper in the circumstances of the case.

Sworn and signed before me
on this the day of May, 2020

DEPONENT

ADVOCATE/HYDERABAD

VERIFICATION

I, B. Sankara Rao , being Petitioner No.3 herein, do hereby declare that the facts stated above in the above paragraphs are true and correct to the best of my knowledge and belief and the contents of the rest of the paragraphs are believed to be correct based on the information and legal advice of my counsel.

Hence, verified on this the day of May, 2020 at Hyderabad.

COUNSEL FOR PETITIONER

PETITIONER

