

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE EIGHTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 808 OF 2013

Writ Appeal under clause 15 of the Letters Patent against the order dt. 30-04-2013 passed in W.P. No. 10204 of 2011. on the file of the High Court.

Between:

1. Sri.Chalmeda Lakshmi Narasimha Rao, S/o.C.Anand Rao, Occ Business, R/o .H.No.3-1-396, Christian Colony, Karimnagar
2. Sri.Chalmeda Madhusudhan Rao, S/o.C.Anand Rao, Occ Business, R/o .H.No.1-2-56/38, Domalguda, Hyderabad

...APPELLANTS/PETITIONERS

AND

1. The Regional Director -Cum-Appellate Commissioner of, Municipal Administration, Warangal and Chairman of the Appellate Committee for Examing Appeals under Rule 11 of the A.P.Regulation And Penalization of Unauthorized Buildings, Warangal represented By its Chairman
2. The Municipal Corporation Karimnagar, Karimnagar, represented by its Commissioner
3. Dr.Rajaboina Yakaiah, S/o. Ventaiah, H.No.3-1-395, Christian Colony, Karimnagar-505 002
4. Dr.Rajaboina Padma W/o. Yakaiah, H.No.3-1-395 Christian Colony, Karimnagar-505 002
5. Dr.Rajaboina Venkatamma, W/o. Ventaiah, H.No.3-1-395 Christian Colony, Karimnagar-505 002

...RESPONDENTS

**Counsel for the Appellant: SRI. RAJA SRIPATHI RAO,
SENIOR COUNSEL FOR THE APPELLANTS**

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

Counsel for the Respondent No.2: SRI R. A. CHARY(SC FOR MC KAR,NIZ)

Counsel for the Respondent No.3: SRI J. PRABHAKAR, SENIOR COUNSEL

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.808 of 2013

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

Mr. Raja Sripathi Rao, learned Senior Counsel for the appellants.

Mr. J. Prabhakar, learned Senior Counsel for respondent No.3.

2. This intra court appeal arises from a common order dated 30.04.2013 passed by the learned Single Judge in W.P.No.10204 of 2011.

3. Facts giving rise to filing of this appeal briefly stated are that respondent Nos.3 to 5 vide registered sale deed had purchased a plot measuring 629 square meters situated at Christian Colony, Karimnagar, in the year 2000. Thereafter, an application was submitted by them seeking building permission for construction of building consisting of G+2 floors with plinth area of 191.75

square meters for hospital and 124.33 square meters for residential purpose in each floor on the said plot. The Commissioner, Karimnagar Municipal Corporation vide order dated 10.05.2002 granted the building permission to respondent Nos.3 to 5.

4. The building was constructed by respondent Nos.3 to 5 in deviation from the sanctioned plan and therefore they filed an application seeking regularization of the deviation. The Commissioner by order dated 29.07.2009 regularized the deviation. Being aggrieved, the appellants filed an appeal before the appellate authority constituted vide G.O.Ms.No.901, dated 31.12.2007. The appeal preferred by the appellants was considered by a Committee comprising of (1) Regional Deputy Director, Town Planning, (2) Regional Director, Municipal Administration, (3) Superintendent Engineer and (4) The Commissioner, Karimnagar Municipal Corporation. The appeal preferred by the appellants was rejected by proceedings dated 10.03.2011.

5. The appellants challenged the aforesaid proceedings in W.P.No.10204 of 2011. The learned Single Judge by common order dated 30.04.2013 has dismissed the writ petition. Hence, this appeal.

6. Learned Senior Counsel for the appellants submitted that the Commissioner, Karimnagar Municipal Corporation himself had regularized the deviation by proceedings dated 29.07.2009 and therefore his presence as one of the Members of the appellate authority has vitiated the order passed by the appellate authority. It is further submitted that the impugned order therefore be set aside and the matter be remitted for reconsideration before the appellate authority.

7. Learned counsel for respondent No.2 was unable to dispute the submission made by the learned Senior Counsel for the appellants that the Commissioner, Karimnagar Municipal Corporation, was one of the Members of the appellate authority.

8. We have considered the submissions made by the learned counsel for the parties and have perused the record.
9. It is trite law that no one can be a Judge in his own case.
10. Admittedly, the Commissioner, Karimnagar Municipal Corporation, had passed proceedings of regularization dated 29.07.2009. It is also not in dispute that the Commissioner, Karimnagar Municipal Corporation, was also a Member of the appellate authority who decided the appeal. The participation of the adjudicating authority in the appeal has vitiated the consideration of the appeal preferred by the appellants, as the order passed by the appellate authority has been passed in violation of the principles of natural justice.
11. For the aforementioned reasons, order dated 30.04.2013 passed by the learned Single Judge in W.P.No.10204 of 2011 is hereby set aside and the matter is remitted to the appellate authority. Needless to state

that the Commissioner, Karimnagar Municipal Corporation shall not be a Member of the appellate authority. The appeal shall be decided after affording an opportunity of hearing to the appellants as well as respondent Nos.3 to 5 by a speaking order expeditiously. It is made clear that this Court has not expressed any opinion on merits of the case.

12. Accordingly, the writ appeal is disposed of.

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

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Sd/-M.MANJULA
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. The Regional Director -Cum-Appellate Commissioner of, Municipal Administration, Warangal and Chairman of the Appellate Committee for Examining Appeals under Rule 11 of the A.P.Regulation And Penalization of Unauthorized Buildings, Warangal represented By its Chairman
2. The Muncipal Corporation Karimnagar, Karimnagar, represented by its Commissioner
3. Two CCs to GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to SRI. RAJA SRIPATHI RAO, SENIOR COUNSEL [OPUC]
5. One CC to SRI. R. A. CHARY(SC FOR MC KAR,NIZ) [OPUC]
6. One CC to SRI. J. PRABHAKAR, Advocate [OPUC]
7. Two CD Copies

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HIGH COURT

DATED:18/09/2024

JUDGMENT

WA.No.808 of 2013



**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS**

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18/9/24
BK