

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

**AND**

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

**+ WRIT APPEAL No.591 of 2023**

% Date: 02.08.2023

# Mohammad Fareed Pasha

... Appellant

**v.**

\$ The State of Telangana,  
Rep. by its Principal Secretary,  
Municipal Administration and Urban Development Department,  
Secretariat, BRKR Bhavan, Hyderabad,  
And others.

... Respondents

**! Counsel for the appellant** : Mr. B.Arjun Rao

**^ Counsel for respondents No.1 and 6:** Mr. Pasham Krishna Reddy,  
Learned Government Pleader for Municipal Administration and Urban  
Development Department.

**^ Counsel for respondents No.2 and 4:** Mr. M.Roopender,  
Learned Government Pleader for Home

**^ Counsel for respondent No.3:** Mr. M.Ram Mohan Reddy,  
Learned Standing Counsel

**^ Counsel for respondent No.5:** Mr. Avinash Desai,  
Learned Senior Counsel  
representing Mr. M.Pranav

< GIST:

> HEAD NOTE:

? CASES REFERRED:

1. 1993 Supp (2) SCC 20
2. (2007) 10 SCC 635
3. (2008) 12 SCC 481
4. (2010) 11 SCC 557
5. (2011) 7 SCC 69
6. 2021 SCC Online SC 1194

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

**AND**

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

**WRIT APPEAL No.591 of 2023**

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

Mr. B.Arjun Rao, learned counsel for the appellant.

Mr. Pasham Krishna Reddy, learned Government Pleader for Municipal Administration and Urban Development Department for respondents No.1 and 6.

Mr. M.Roopender, learned Government Pleader for Home, for respondents No.2 and 4.

Mr. M.Ram Mohan Reddy, learned Standing Counsel for respondent No.3.

Mr. Avinash Desai, learned Senior Counsel representing Mr. M.Pranav, learned counsel for respondent No.5.

2. This intra court appeal emanates out of the order dated 22.11.2022 passed by the learned Single Judge by

which writ petition preferred by the appellant has been dismissed with costs of Rs.15,000/- payable to the High Court Legal Services Authority.

3. The relevant facts leading to filing of this appeal briefly stated are that respondent No.5 claims title in respect of plots of land bearing Nos.6 and 26 in Survey No.155 of Varidela Village of Kollapur Mandal (hereinafter referred to as, 'the schedule property'). A registered sale deed was executed in favour of respondent No.5 in respect of plot bearing No.26. In respect of plot No.6, since the amount of consideration was paid in instalments, the sale deed executed in favour of respondent No.5 has not been registered as yet. Appellant claims ownership of part of plot No.6 which was already sold to respondent No.5 by a registered sale deed dated 20.11.2021. Respondent No.5 thereupon made a complaint to the Sub Registrar. Thereupon, the appellant as well as the legal representatives of the deceased vendor of respondent No.5 executed another sale deed dated 01.02.2022 in respect of an area measuring 69.44 square yards.

4. Thereupon, respondent No.5 again made a complaint to the Sub Registrar. Thereafter, a deed of rectification was executed by the appellant as well as the other legal representatives in respect of the land/part of plot No.6.

5. The appellant has approached this Court by filing a writ petition with a grievance that respondent No.5 is raising illegal construction on the schedule property even though the building permission has been granted in his favour.

6. Learned Single Judge in the order dated 22.11.2022 noted that the appellant has suppressed the factum of execution of sale deed dated 20.11.2021 as well as the fact that the building permission in favour of the appellant was revoked. The appellant has also suppressed the fact of execution of cancellation deed. Learned Single Judge therefore concluded that the appellant is guilty of suppression of facts and has not approached the Court with clean hands. Accordingly, the writ petition was dismissed.

7. Learned counsel for the appellant is unable to dispute the fact that he did not bring the facts to the notice of the learned Single Judge at the first instance.

8. Learned Senior Counsel for respondent No.5 submits that the building permission granted in favour of respondent No.5 on 14.02.2022 was revoked on 25.02.2022. Thereafter, notice has been issued to respondent No.5 on 13.06.2023 by respondent No.3 – Kollapur Municipality, for demolition of construction. It is pointed out that the aforesaid notice has been assailed by respondent No.5 in a writ petition, namely W.P.No.15462 of 2023 in which a Bench of this Court has granted an interim order dated 20.06.2023. Therefore, even otherwise, no relief can be granted to the appellant in this appeal.

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

10. The jurisdiction of this Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary. It is a fundamental principle of law that a

person invoking the jurisdiction under Article 226 of the Constitution of India must approach the Court with clean hands and should not conceal material facts. It has further been held that there is necessity to save judicial process for becoming abuse to subvert justice. The need to approach the Court with clean hands is all the more necessary as law is not a game of chess (See **Ramjas Foundation v. Union of India**<sup>1</sup>, **Rajkumar Sani v. State of U.P.**<sup>2</sup>, **K.D.Sharma v. Steel Authority of India Limited**<sup>3</sup>, **Manoharlal v. Ugrasen**<sup>4</sup>, **Amarsingh v. Union of India**<sup>5</sup> and **Shri. K.Jayaram v. Bangalore Development Authority**<sup>6</sup>).

11. In view of the aforesaid well settled legal position and in view of the fact that the appellant is guilty of suppression of facts, we do not find any ground to interfere with the order passed by the learned Single Judge. For yet another reason, no effective relief to the appellant in this

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<sup>1</sup> 1993 Supp (2) SCC 20

<sup>2</sup> (2007) 10 SCC 635

<sup>3</sup> (2008)12 SCC 481

<sup>4</sup> (2010) 11 SCC 557

<sup>5</sup> (2011) 7 SCC 69

<sup>6</sup> 2021 SCC Online SC 1194

appeal can be granted, as subsequent to cancellation of building permission on 25.02.2022, a notice was issued to respondent No.5 by respondent No.3 for demolition of the existing construction on 13.06.2023. A Bench of this Court by an order dated 20.06.2023 passed in W.P.No.15462 of 2023 has directed the Municipality to maintain *status quo*.

12. For the aforementioned reasons, we do not find any merit in this appeal. The same fails and is accordingly dismissed.

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

Note: LR copy to be marked.

B/o.

vs