

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE P NAVEEN RAO

WRIT PETITION NO: 10178 OF 2021

Between:

1. Karam Venkaesh, S/o Karam Bazar, Aged about 40 Years, Occupation. Business, R/o 6-72, Brundhavan Colony, Balaji Nagar, Thirumalagiri, Hyderabad.
2. Nalla Sudhakar Reddy, S/o Nalla Chinnaiah, Aged about 48 Years, Occupation. Business, R/o 9-145/1, Dharpally, Dharpalle, Nizamabad, Hyderabad.

...PETITIONERS

AND

1. The State of Telangana, Rep. by its Principal Secretary Revenue Department, Secretariat Buildings, Hyderabad.
2. The Tahsildar and Joint Sub-Registrar Office, Bibinagar, Yadadri Bhuvanagiri District.
3. The District Collector, Yadadri Bhuvanagiri District.
4. M/s. Name Estates Pvt., Ltd., rep by its Chairman and Managing Director, Col Ranga Rao Name Retd., S/o. late N.V. Naidu, Office at Gunrock Enclave, Secunderabad, Telangana, 500009. R 4 is impleaded as per C.O. dt. 14/06/2021 in I.A. No. 2/2021.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ order or direction, especially in the nature of Writ of Mandamus, declaring the action of the 2nd Respondent in not registering the Sale Deed presented to him through Dharani Portal by the Petitioners for the agricultural property admeasuring an extent of Acres 5-30 Guntas, comprised in Survey No. 528/Ruu, and 528A, situated at Bibinagar Village, Bibinagar Mandal, Yadadri Bhuvanagiri District having TD-cum-Pass Book Number. T30060090496, as illegal, arbitrary and contrary to Section 5 of the Telangana Rights in Land and Pattadar Pass Books Act, 2020 (Act.No.9 of 2020) and also violative of Article 14, 21 and Article 300A of the Constitution of India.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd Respondent to complete the registration of the sale deed for the agricultural property admeasuring an extent of Acres 5-30 Guntas, comprised in Survey

No.528/Ruu, and 528A, situated at Bibinagar Village, Bibinagar Mandal, Yadadri Bhuvanagiri District having TD-cum-Pass Book Number: T30060090496 filed by the Petitioners before him through online Dharani portal and to issue new Pattadar Passbooks and Title Deeds along with the registered Sale Deed in favour of the 2nd Petitioner in adherence with procedure prescribed under section 5 of the Telangana Rights in Land and Pattadar Pass Books Act, 2020 (Act.No.9 of 2020).

Counsel for the Petitioners: SRI. A P SURESH

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE

Counsel for the Respondent No. 4: Sri T.V.Kalyan Singh

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.10178 OF 2021

ORDER:

This writ petition is filed praying to grant the following relief:

"to issue a Writ order or direction especially in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not registering the Sale Deed presented to him through Dharani Portal by the petitioners for the agricultural property admeasuring an extent of Acres 5.30 guntas comprised in Survey No.528/Ruu and 528A situated at Bibinagar Village, Bibinagar Mandal, Yadadri Bhuvanagiri District, having TD-cum-Pass Book No.T30060090496, as illegal, arbitrary and contrary to Section 5 of the Telangana Rights in Land and Pattadar Pass Books Act, 2020 (Act No.9 of 2020) and also violative of Articles 14, 21 and 300A of the Constitution of India and pass such other order or orders as are deemed fit and proper under the circumstances of the case."

2. Heard A.P.Suresh, learned counsel for petitioners, learned Assistant Government Pleader for Revenue for respondents 1 to 3, and Sri T.V.Kalyan Singh, learned counsel for respondent no.4.

3. First petitioner claims that he is the owner and in possession of agricultural land to an extent of Acs.5.30 guntas in Sy.No.528/Ruu, and 528A of Bibinagar Village and mandal in Yadadri-Bhuvanagiri district. He was issued passbook-cum-title deed. He offered to sell this land to the second petitioner for valuable sale consideration and sale deed was executed on 12.11.2020. In compliance of the Indian Registration Act, 1908 (Act, 1908), and the Indian Stamp Act, 1899 (Act, 1899), petitioners applied through DHARANI web portal for registration of the sale deed. The parties were asked to appear on 27.01.2021 at 12.30 p.m. Accordingly, petitioners appeared and submitted all

the documents in support of the claim of ownership by the 1st petitioner. However, the Tahsildar refused to register the document without assigning reasons. Seeking to declare the action of the Tahsildar in not registering the sale deed presented by the petitioners as illegal and contrary to Section 5 of the Telangana Rights in Land and Pattadar Passbooks Act, 2020 (Act 9 of 2020), this writ petition is filed.

4. According to the learned counsel for petitioners, the property is a private property and is not included in the list of prohibited properties under Section 22-A of the Act, 1908. There is no prohibition on dealing with the property by any statutory provisions. That being so, the Tahsildar cannot refuse to register the document submitted before him in compliance with all the statutory formalities.

5. Fourth respondent has a different story to the entire claim of the petitioners.

5.1. According to the 4th respondent, Peraboina Venkataiah, Peraboina Swamy and Peraboina Chandravasu are the owners of the agricultural land to an extent of Acs.15.26¼ guntas in different survey numbers. They agreed to sell the land to the 4th respondent. An agreement of sale was executed on 16.05.1994 after receiving full sale consideration. They have also executed registered General Power of Attorney in favour of Sri N.Gopal Naidu, in his capacity as Director of 4th respondent-company, the father of first petitioner. It appears, Mr. Gopal Naidu resigned as Director of 4th respondent-company. Alleging that he was trying to alienate the company properties, the 4th respondent-company instituted O.S.No.9 of

2004 pending in the Court of Senior Civil Judge, Bhongir praying to grant perpetual injunction restraining N.Gopal Naidu from alienating, transferring or creating any charge or mortgage etc. over company's properties. On 30.04.2005 the Senior Civil Judge granted injunction order restraining N.Gopal Naidu from alienating, transferring, mortgaging, creating any charge or lien over petition 'A' to 'D' schedule lands till the disposal of the suit. The list in these schedules also contains the land in issue in this writ petition. Aggrieved thereby, N.Gopal Naidu filed C.M.A.No.543 of 2005 in this Court. By order dated 17.06.2011, the said C.M.A., was dismissed, affirming the view taken by the trial Court.

5.2. That being so, alleging that the owners failed to execute the registered sale deed in accordance with the terms of the agreement of sale dated 16.05.1994, the 4th respondent filed O.S.No.88 of 2005 in the Court of Senior Civil Judge at Bhongir seeking to grant decree of specific performance of sale agreement. The said suit was decreed on 28.04.2006 directing the defendants 1 to 3 to execute registered sale deed within six months from the date of judgment. The suit schedule land is the one in issue in this writ petition. As the sale deed was not executed as per the decree, 4th respondent-company filed E.P.No.5 of 2017 and the same is pending consideration of the Court of Senior Civil Judge, Bhongir.

6. According to the learned counsel for 4th respondent, once civil litigation is pending and an injunction order is granted preventing alienation, no alienation can take place. Further, in view of the decree passed in the suit for specific performance, the original land owners cannot deal with the property in any other

manner except complying with the decree and to execute sale deed. Learned counsel also placed reliance on the decision of this Court in **T.Ganesh v. State of Telangana and others**¹, wherein this Court held that once an injunction order is made by the trial Court or this Court, the deeds of conveyance or any other document affecting the property in issue cannot be entertained even if registering authority is not a party to the proceedings.

7. Several other contentions are also urged, but the Court is not recording and dealing with those contentions as the issue is confined as to whether the registering authority is justified in not registering the deed of conveyance of the petitioners.

8. From the pleadings in the writ petition and the affidavit of the 4th respondent filed in support of I.A.No.2 of 2021, it is apparent that on the same subject matter, suit is pending and another suit is decreed in favour of 4th respondent. In the pending suit an injunction is granted, which according to the learned counsel for 4th respondent, is still in operation.

9. Ordinarily, whenever a document is presented for registration in compliance of the Indian Registration Act, 1908 and the Indian Stamp Act, 1899, the registering authority has to receive, process, register and release the document. He may refuse to receive/register, if the property in issue, on which registration is sought, is included in the list of prohibited properties under Section 22-A of the Act, 1908. He may also refuse to register the document if some litigation is pending and civil Court or High Court passed interlocutory order affecting the transactions in the

¹ 2020 (3) ALD 139 (TS)

concerned land. He can also refuse to register a document if the document is not in compliance with the provisions of Rule 26 of the Telangana Rules under the Registration Act, 1908, and if any objections are raised as per Rule 58.

10. Rule 26² of the Telangana Rules under the Registration Act, 1908 requires the Registering Authority to examine the document presented for registration to ensure that all the requirements prescribed in the Act and the Rules are complied with and list out instances referable to various sections. According to this provision, the registering authority can verify whether a person, who executed the document and presented before him, is entitled to present himself, and execute the document affecting a property. This provision is referable to Sections 32 and 40 of the Act 1908. As per Section 32 of the Act, 1908, the executant/representative of the document should be physically present.

11. Rule 58 though couched in a negative terms, but also requires the registering authority to consider objections raised on any other ground mentioned in the Rule.

12. This being the statutory environment in which the registering authority should act when a document is presented for registration, going by the provisions of the Indian Registration Act, 1908 and the Rules made there under, it is seen the Act, 1908 and the Rules are silent on the course to be adopted by the Registering

² Rule 26-ii(b) of the Telangana Rules under the Registration Act, 1908:

"Rule 26. (i) Every document shall, before acceptance for registration, be examined by the Registering Officer to ensure that all the requirements prescribed in the Act and in these rules have been complied with, for instance:

(a) xxx

(b) that the person is entitled to present it (Sections 32 and 40)

Authority if litigation is pending on the landed property on which a document is presented before him for registration. To fill the gaps in the statutory provisions and to give effect to the intendment of the scheme of the Act or the Rules, Government notified Standing Orders to guide the Registering Authority. The Standing Order 219(b)³ requires the Registering Authority to refuse to register a document for registration if High Court or any other civil Court restrained a person from alienating the property and such order is brought to the notice of the registering officer. In addition the Commissioner and Inspector General of Registration and Stamps also issued circular instructions to guide the registering officer.

13. In **T.Ganesh** (supra), the Court considered the precedent decisions on the scope of power of registering authority refusing to register a document presented before him on the ground that a restrained order of this Court or a Civil Court is operating and scope of power to issue circular instructions by the Commissioner and Inspector General of Registration and Stamps. In Circular Memo dated 10.03.2010 issued by the Commissioner and Inspector General of Registration and Stamps, the registering authority was instructed not to entertain and register a document affecting a property on which an injunction order of a civil Court and/or interlocutory order of the High Court is operating. The validity of the Circular was tested before this Court. Having regard

³ "S.O. 219 - An order restraining a person from alienating certain property does not operate as a prohibition to the registering officer against the registration of a document executed by such person effecting such property,

(b) "If the Andhra Pradesh High Court or any other Civil Court restrains a person from alienating a property and if such orders are brought to the notice of the Registering Officer or served on the Registering Officer, the Registering Officer is estopped from going ahead with the Registration".

to the law laid down by the Hon'ble Supreme Court, this Court held that it is within the competence of the Commissioner and Inspector General of Registration and Stamps to issue circular instructions. The decision of the registering authority not to register the document on the ground that an injunction order is operating on the same property is held valid.

14. In the case on hand, there are two hurdles, insurmountable as they are, petitioners need to cross to hold the action of the registering authority in not registering the document as illegal.

15. Firstly, the injunction order granted by the Senior Civil Judge at Bhongir on 30.04.2005 in I.A.No.93 of 2004 in O.S.No.9 of 2004 restrained N.Gopal Naidu from alienating, transferring, mortgaging, creating any charge or lien over petition 'A' to 'D' schedule lands till the disposal of the suit. In schedule 'A' list of properties, land to an extent of Acs.10.38% guntas in Sy.No.528 of Bibinagar village is also included. In schedules 'B' to 'D', there are several other survey numbers. Thus, the land covering various survey numbers included in the list in schedules 'A' to 'D' to the injunction order cannot be alienated. C.M.A.No.543 of 2005 filed against the order in I.A.No.93 of 2004 in O.S.No.9 of 2004, dated 30.04.2005 was dismissed by this Court vide order dated 17.06.2011. Secondly, in O.S.No.88 of 2005 where the original pattadars as well as N.Gopal Naidu were the defendants, the suit for specific performance was decreed in favour of fourth respondent covering the subject property. It appears from the schedule appended to the proposed sale deed, dated 12.11.2020,

it is the same land which was agreed to be sold by the original pattadars to the 4th respondent.

16. According to the 4th respondent, representation was made to the Tahsildar and the Joint Sub-Registrar informing them the injunction order and the decree and to invalidate the claim of the petitioners.

17. From the reading of the Standing Order 219(b), the circular instructions of the Commissioner and Inspector General of Registration and Stamps, and the view taken by this Court in **T.Ganesh** (supra), it is clear that once the registering authority comes to know that there is an injunction order imposing restraint on alienation etc., of a landed property, it is sufficient for him to refuse registration of a document.

18. Having regard to the litigation inter parties, provisions of the Standing Order 219(b), the instructions of the Commissioner and Inspector General for Registration and Stamps and the law on the subject, I do not see any error in the decision of the registering authority in not registering the sale deed presented before him by the petitioners. Writ Petition is accordingly dismissed. It is made clear that there is no expression of opinion on merits and parties are at liberty to prosecute civil law remedies. Pending miscellaneous petitions, if any, shall stand closed.

//TRUE COPY//

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR



SECTION OFFICER

To,

1. 10 L.R Copies.
2. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
3. The Secretary, Telangana Advocates Association Library, High Court for the State of Telangana at Hyderabad.
4. One CC to Sri. A P Suresh Advocate [OPUC]
5. Two CCs to GP For Revenue, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies
7. One cc to Sri T.V.Kalyan Singh, Advocate (OPUC)
8. One Spare CopyP

HIGH COURT

DATED:30/06/2021

ORDER

WP.No.10178 of 2021



DISMISSING THE WRIT PETITION
WITHOUT COSTS

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[Signature]
08 Jul 2021