

**HON'BLE SRI JUSTICE P.NAVEEN RAO**

**CONTEMPT CASE NO.441 OF 2015**

**Date: 05.10.2015**

Between :

G.Rama Avataram, Adhar (UID) No.7384-0954-5821,  
Party in person, representing HAL Employees Cooperative  
Housing Society, Registered No.269 with its office situated  
At Survey No.77, Hafeezpet, Hyderabad.

.... Petitioner

And

Dr. Vijay Kumar, IAS, Commissioner and Inspector General,  
Stamps & Registration Department, Registration Bhavan,  
M.J.Market Road, Hyderabad and others.

.... Respondents

This Court made the following :

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**ORDER:**

On a representation made by the Hindustan Aeronautics Limited Employees Cooperative Housing Society, the Commissioner and Inspector General of

Registration and Stamps issued memo No.Can/ 15733/2012, dated 17.09.2012 where under the Commissioner invited attention of the District Registrar, Ranga Reddy to the subject reference and was requested to conduct enquiry in the matter and pass necessary orders cancelling the documents. He also requested the District Registrar to give direction to the Joint Sub-Registrar to proceed under Section 83 of the Registration Act on suppressions noticed during his enquiry and report compliance.

2. In order to ascertain true facts on the allegations levelled by the party-in-person with reference to double registrations, this Court by order dated 29.04.2014 requested the District Collector, Ranga Reddy District to conduct an independent and in depth enquiry on three issues mentioned therein and to submit report to the Court.

3. Accordingly, the District Collector conducted enquiry and submitted his report to this Court. Apart from various findings recorded by him, the District Collector noticed that there were serious lapses in entertaining the documents for registration. The District Collector found that multiple registrations took place on the very same land, which was purchased by the society represented by party-in-person after 1981-82 and several documents were registered on the same land. He found that unregistered assignment deed executed in favour of the legal representatives of P.S.Reddy was validated during the pendency of the Court cases and after the death of original assignment holder i.e., P.S.Reddy. This registration of validation after the death of original assignee resulted in multiple transactions. The District Collector observed that under the guise of orders of this Court, authorities entertained further transactions violating provisions of the Registration Act. He reported that he was not satisfied with the reasons assigned by the District Registrar for entertaining the subsequent transactions including validation of unregistered assignment deed.

4. The District Collector also noticed that person, by name, Iqbal Ali Khan, a British national never visited India during the above transactions, but transactions were made on his name. The District Collector did not agree with the explanation given by

the District Registrar that the transactions were accepted because of the orders of the High Court. He suggested to thoroughly enquire into this lapse. He has noted that there was clear violation of procedure and Registration Department has failed to follow the provisions of the Registration and Stamps Act.

5. On 30.12.2014 this Court passed the following order :

*“Having regard to the statement made by Sri Venkat Rajesh, Joint Inspector General of Registration and Stamps, the directions issued by the Commissioner and Inspector General of Registration and Stamps in his memo dated 17.09.2012 should be complied as expeditiously as possible, preferably within a period of two months by duly taking note of the report of the District Collector.*

*The Joint Inspector General of Registration and Stamps shall file a report of action taken in accordance with the Memo of the Commissioner and Inspector General, dated 17.09.2012 by 2.3.2015. It is hoped and expected that the long felt grievance of the members of the society would be attended in an expeditious manner.”*

6. Alleging violation of the orders of this Court, this contempt is filed.

7. On service of notice, counter affidavit is filed by the 4<sup>th</sup> respondent along with a report enclosed to it, which is actually drawn up by the Joint Sub-Registrar. The Joint Sub-Registrar conducted a detailed enquiry dwelling into various aspects concerning the subject land and held that no one has violated provisions of the Indian Registration Act (for short the Act) and therefore there is no need to initiate proceedings under Section 83 of the Act. Having noticed that, prima-facie, the order of the Court is not complied by the Joint Sub Registrar-I, Ro(OB), Ranga Reddy District, the incumbent is impleaded as a respondent and notice was ordered.

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8. On further hearing, Court noticed that action taken by the Joint Sub-Registrar does not amount to compliance, and hence appearance of the Joint Sub-Registrar was ordered.

9. Extensive submissions are made on behalf of the respondents by the learned Assistant Government Pleader for Revenue. Learned Assistant Government Pleader

raised preliminary objection on maintainability of the contempt proceedings on the ground that on the issue arising out of C.S.No.14 of 1958, matter is ceased by the Supreme Court and Supreme Court by order dated 31.10.2014 made in I.A.No.1-2/14 in SLP No.17362-17363 of 2014, directed that any other suit or proceeding pending in any court in India shall await the verdict of the special leave petition. Learned Assistant Government Pleader therefore submitted that the contempt proceedings should be stayed till further orders of the Supreme Court.

10. Learned Assistant Government Pleader further contended that initiating proceedings under Section 83 necessarily required enquiry in compliance of provision contained in Section 82. Thus, the Joint Sub-Registrar has conducted enquiry and during the enquiry when he found that the contentions raised on behalf of the members of the housing cooperative society were not valid, the report was submitted accordingly. He, therefore, submitted that no contempt arises. The report of the Joint Sub-Registrar finds fault with the report of the District Collector.

11. Having given anxious consideration to said objection and having noticed that seeking compliance of orders of this Court is not against orders of Hon'ble Supreme Court in the pending special leave petitions, Contempt Case was admitted and notice in Form-I was issued by order dated 06.08.2015.

12. The order passed by this Court is to comply with the directions issued by the Commissioner on 17.09.2012 by duly taking note of the report of the District Collector. As briefly noted above, the District Collector pointed out serious lapses in enforcing the provisions of the Indian Registration Act undertaking double registrations and validation of documents contrary to the provisions of law. Thus, duly taking note of the said report and in compliance of the directions of the Commissioner dated 17.09.2012, the Joint Sub-Registrar-I of Ranga Reddy District was to act upon and take consequential steps. He cannot sit over the memo of the Commissioner and cannot review the report of the District Collector. He was only to act as per the orders of the Commissioner as directed by this Court.

13. The Joint Sub Registrar-I appeared in person. The learned Assistant Government Pleader represented on his behalf. The learned Assistant Government Pleader placed reliance on counter-affidavit and additional counter-affidavit filed by the 4<sup>th</sup> respondent and contended that the Joint Sub-Registrar has not committed contempt of the orders of this Court. He has conducted enquiry as ordered by the Commissioner and Inspector General, Stamps & Registration Department and in due compliance of the orders of this Court. According to the learned Assistant Government Pleader, an enquiry is mandatory before launching proceedings in terms of the provision contained in Sections 82 and 83 of the Registration Act read with Rules 188, 189 and 190 of the A.P. Rules under the Registration Act, 1908. Thus, the enquiry was conducted by the Joint Sub-Registrar and during the enquiry, he found that allegations made by the party-in-person are baseless and there is no violation of the provisions of the Registration Act. According to him, there were no double registrations since subsequent registration took place as a consequence to the directions of this Court and various registrations took place because of the orders of the Court from time to time.

14. The learned Assistant Government Pleader further submitted by placing reliance on the decision of the Supreme Court in **Dharamdeo Rai v. Ramnagina Rai**, that there was no personal knowledge to the registering authority and, therefore, it cannot be said that registering authority committed violation of the provisions of the Act. The Joint Sub-Registrar having found that no illegalities were committed, he has rightly decided not to initiate prosecution. It was further contended that Section 83 is not attracted as per the comments made by the District Collector in his report. He further submitted that Iqbal Ali Khan is a purchaser and therefore, his presence was not required.

15. It was also the stand of the Joint Sub-Registrar and submission of the learned Assistant Government Pleader that it is permissible under Section 83 for private person to initiate prosecution for the offence under the Act and petitioner could have lodged complaint under Section 83.

16. This Court requested Sri S.Sudeep Reddy, Advocate to assist the Court with

reference to the course of action the Court is required to take on the allegations of committing contempt by the 6<sup>th</sup> respondent and in view of the stand of 6<sup>th</sup> respondent.

17. Learned Amicus made extensive submissions on the scope and purport of the orders passed by this Court and action taken by the 6<sup>th</sup> respondent.

18. Learned counsel made detailed submissions by referring to provision of Indian Registration Act, 1877 (Repealed Act) and provisions of Indian Registration Act, 1908 and the decision rendered by the Privy Council. According to the learned counsel, the relevant provisions of the Indian Registration Act (repealed) and the provisions of the present Act are same and principles decided by the Privy Council in those cases equally apply to the situation arising under the present Act.

19. In **Mussammat Mujih-un-Nisa and others v. Abdul Rahim and another**, the Privy Council construed the provisions contained in Section 32 of the Repealed Act, which require every document, to be registered under it, whether such registration is compulsory or optional, shall be presented by some person executing or claiming under the same or by the representative or assignee of such person, or by the agent of such person, representative or assignee duly authorized by power of attorney. In the said case, power of attorney holder of person, who subsequently died, presented a document for registration after the death. It was contended that as per the general law as well as in terms of the provision contained in Section 32, after the man's death, the person who has locus standi to represent would be the attorney of the representative of the deceased. The contention urged was that the error of the Registrar was a defect in his procedure only and therefore the act of registration cannot be said as invalidated. This was rejected by the Privy Council. It held that the error appears to be more radical in nature. The earlier deeds come to end as a consequence to the death of the executant.

20. Similar issue was raised in **Ma PWA May and another v. S.R.M.M.A. Chettyar Firm** (Privy Council Appeal No.102 of 1928). Construing the provisions of Section

87, Privy Council held that if the registrar having jurisdiction had made a mistake in exercise of power, the section takes effect and, therefore, the mistake is an error in procedure.

21. Construing the provisions of Section 87, the Division Bench of this Court in **Mudunuri Gopalaraju v. Yannabathula Venkanna** held that the provision of Section 87 is not attracted. Once it is accepted that the District Register was persuaded to follow a wrong course as a result of fraud, such a fraud is not protected by Section 87. In W.P.No.23680 of 2006, learned single Judge of this Court held that whenever a person falsely personates another in any proceedings or enquiry under the Registration Act, such person is liable for imprisonment for a period of seven years or with fine or with both. This Court further held that the power to commence prosecution is given to the registering officer under Section 83 of the Registration Act and the procedure is envisaged in Rules 188, 189 and 190 of the Andhra Pradesh Rules under the Registration Act, 1908. This Court observed that the respondent could not have abdicated the statutory duty by merely informing the petitioner that the registering authority may not take any action. This Court held that when a commission of offence under Section 83 read with Section 82(c) of the Act is brought to the notice of the Sub-Registrar, he is bound to take action in accordance with the Rules referred to hereinabove.

22. Learned Amicus further submitted that private person launching prosecution under Section 83 is entirely different and outside the scope of the contempt proceedings. In the instant case the issue for consideration is whether the direction of this Court is violated by the contemnor.

23. Learned Amicus submitted that in the light of the orders passed by this Court, which orders are not assailed, there was no discretion available to the Joint Sub-Registrar to hold an enquiry and to record finding that no cause arises for initiating proceedings under Section 83 of the Act. If at all the Joint Sub-Registrar had any doubt on proceeding further in the matter, he ought to have sought clarification from this Court, but cannot suo-motu proceed contrary to the orders of this Court.

24. I have also given an opportunity of hearing to the party-in-person. He was explained of the orders passed by this Court and what was required to be done as directed by the Court. He has stated that he has not violated the orders of the Court and whatever was done by him is in accordance with the directions issued by this Court and having found that the provisions of Sections 82 and 83 are not attracted, no prosecution was launched. He stated that he is innocent and in his entire service he has not done any illegality or violated the provisions of law.

25. At the cost of repetition, it is to be seen that the direction issued by this Court was to comply with the orders of the Commissioner in memo No.Can/15733/2012 dated 17.09.2012 by duly taking note of the findings recorded by the District Collector in his report. The Inspector General of Registration and Stamps directed the District Registrar to conduct enquiry and pass necessary orders regarding cancellation of the documents. Conducting enquiry was with reference to necessity to cancel the documents. Insofar as first limb of the order is concerned, the issue of cancellation of the documents was stayed by this Court in W.V.M.P.No.1593 of 2013 in W.P.M.P.No.14963 of 2013 in W.P.No.12091 of 2013, dated 24.09.2013. The District Registrar was directed to give directions to the Joint Sub-Registrar to proceed under Section 83 of the Registration Act, on suppression noticed during the enquiry and to report compliance. Earlier, when the District Registrar prepared a report, the Court has gone into the contents of the report and having not satisfied with the same, directed the District Collector to enquire into and submit a report. Accordingly, report was submitted. Therefore, this Court directed to follow the report of the District Collector with reference to taking further action as directed by the Commissioner in his proceedings dated 17.09.2012. Thus, there was no direction by this Court to Joint Sub Registrar to conduct enquiry. His role was only with reference to complying with the orders of the Commissioner and Inspector General of Registration and Stamps, having regard to the report of the District Collector. If there was any ambiguity in the order of this Court and the Joint Sub-Registrar was having doubts regarding the course of action he was required to take, he could have approached this Court, seeking appropriate clarification. No such endeavor was made, but straightaway he has conducted enquiry and submitted a report and in the said report he has commented against the findings recorded by the District Collector. This was wholly unwarranted on his part.

26. As pointed out by the learned Amicus, the action of the Joint Sub-Registrar, 6<sup>th</sup> respondent is not in compliance of the said directions. The Joint Sub-Registrar may be right in his view insofar as attracting the provisions of Sections 82 and 83, but in the light of the orders passed by this Court, he has to act within the four corners of the orders passed by the Court and conclusion arrived by him in the form of a report is outside the scope of the direction issued by this Court. This Court never directed to hold an enquiry and submit a report, but only directed to act upon the orders of the Commissioner by duly taking note of the findings recorded in the report of the District Collector and to proceed further. Contrary to what was directed by the Court, he assumed the responsibility of conducting an enquiry, prepared a report recording findings on merits as if he is adjudicating the culpability of a person. He has assumed larger than the role assigned to him. Even when this was pointed out to him through the Assistant Government Pleader and to him directly, he stands firm on what he has done.

27. On several occasions, the Sub Registrar was present in person before this Court and he was informed of the exact nature of action required by him. Since there was persistent non compliance of the orders of the Court, he was impleaded by name and notice was issued. After service of notice, no further affidavit is filed by him. On enquiry by the Court also, he has reiterated that he has not violated the order of this Court and the report prepared by him is valid.

28. Having regard to the facts of this case, it cannot be said that sixth respondent is not aware of the orders passed by this Court and was not conscious of the course of action he was supposed to follow in accordance with the directions of the Court. It is also appropriate to notice that neither a clarification was sought from the Court nor the order passed by this Court was assailed in appeal. Thus, action of the sixth respondent is willful and deliberate and by such action, sixth respondent has caused disrepute to the orders of the Court which amounts to complete lack of respect, responsibility and accountability towards a judicial order by a Constitutional Court.

29. For the above reasons, I have no hesitation to hold that sixth respondent has

deliberately and willfully violated orders of this Court and accordingly hold him guilty of contempt of Court.

30. Regarding sentence, considering the facts and circumstances of the case, I am of the considered opinion that imposition of fine of Rs.1000/- (Rupees one thousand only) on sixth respondent would meet ends of justice and accordingly ordered. Sixth respondent is allowed four weeks time for paying the fine amount of Rs.1000/-, failing which, he shall suffer simple imprisonment for a period of one week. The appointing authority, shall enter conviction and sentence imposed on sixth respondent in his service register.

Subject to above, the contempt case is disposed of. No costs. Miscellaneous petitions if any pending in the contempt case shall stand closed.

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**JUSTICE P.NAVEEN RAO**

Date: 05.10.2015

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