

IN THE HIGH COURT OF JUDICATURE; AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

WRIT PETITION No. 14615 OF 2015

BETWEEN

Smt. H.Basamma and ors.

...Petitioners

And

Government of Andhra Pradesh,
Rep. by its Secretary, Cooperative Department,
Secretariat, Hyderabad and ors.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 23.7.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

1. Whether reports of Local newspapers
May be allowed to see the judgments?

YES/NO

2. Whether the copies of judgments may be
Marked to Law Reporters/Journals.

YES/NO

3. Whether Their Ladyship/Lordship wish to
See the fair copy of the Judgment ?

YES/NO.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 14615 of 2014

ORDER:

Heard learned Counsel for the petitioners and learned
Counsel for Respondents 4 and 5.

One late H.Sadasivappa was the member of the fourth respondent-Co-operative House Building Society. He died on 26.01.2010. The petitioners in the present Writ Petition are his legal heirs. The fourth respondent-Society conducted an open action of a commercial plot measuring 377 square yards situated in Venture II, Kukatpalli in the year 1997. The said Sadasivappa became the highest bidder. As per the conditions of the auction, 25% of the bid amount should be paid as advance and the said amount was paid by the said Sadasivappa on 5.1.1998. It is the case of the petitioners that in spite of several representations, the fourth respondent-Society was not registering the said plot in favour of said Sadasivappa. After the death of Sadasivappa, the petitioners submitted representations and requested the fourth respondent-Society to receive the balance sale consideration . The fourth respondent-society addressed a letter on 14.8.2012 to the first petitioner directing her to submit claim form and other relevant documents on or before 25.08.2012

and in response to the same, the first petitioner submitted a letter on 11.09.2012 and sought further time. While so, on 4.2.2013 the fourth respondent again addressed a letter to the first petitioner to put up her claim for refund of advance amount paid by her late husband and also directed her to submit original death certificate of her husband and legal heir certificate to enable the society to settle the claim. The fifth respondent issued a Circular on 20.10.2013 for conducting emergency meeting on 27.10.2013 to develop the scheduled commercial plot, which was allotted to the late Sadasivappa.

The petitioners came to know that the fourth respondent-Society transferred the subject plot to the fifth respondent which was contemplating to construct a five storied complex. Then the petitioners filed ARC No. 1 of 2014 before the second respondent under Section 61 of the Cooperative Societies Act seeking a direction to the fourth respondent to execute the registered sale deed. They also filed an interlocutory application being I.A.No.1 of 2014 along with ARC No. 1 of 2014 seeking interim injunction to restrain respondents 4 and 5 from making any constructions on the said property. When the said application for interim injunction was dismissed on 3.3.2014, the petitioners approached the Cooperative Tribunal and filed CTA no. 22 of 2014. Along with the said appeal, the petitioners filed an interlocutory application being I.A.No.90 of 2014 for grant of interim injunction. In the said application, notice was ordered on 9.5.2014. In view of the urgency, the petitioners filed the present Writ Petition.

This Court by order dated 22.5.2014 while ordering notice before admission directed respondents 4 and 5 to maintain status quo in respect of the subject property.

Now the fourth respondent as well as fifth respondent filed WVMP.Nos.1643 of 2014 and 1579 of 2014 respectively seeking vacation of the said order. On the consent of the parties on either side, the Writ Petition is being disposed of at this stage.

The facts relating to availability of the subject plot of the fourth respondent-society and becoming of the late Sadasivappa as highest bidder in respect of the subject plot are not disputed by the parties. The learned counsel for the fifth respondent submits that since said Sadasivappa did not pay the balance sale consideration, the allotment in his favour was cancelled. However, this fact is disputed by the learned Counsel for the petitioners. Having regard to the disputed questions of fact, this Court is not inclined to go into the merits or otherwise of the subject matter in view of the pendency of the Arbitration Proceedings before the second respondent. In the circumstances, the second respondent is directed to dispose of the arbitration proceedings initiated at the instance of the petitioners as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Till the disposal of the arbitration proceedings by the second respondent, the interim order of status quo granted by this Court on 22.5.2014 shall continue in operation.

Subject to the above, the Writ Petition is disposed of.
Miscellaneous petitions pending consideration if any in the
Writ Petition shall stand closed in consequence. No order as
to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 23rd JULY, 2015.
Msnr_x