HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT PETITION No.35673 OF 2015

ORDER: (Per Hon'ble Sri Justice A. Shankar Narayana)

Seeking relief of certiorari to call for the records in L.G. I.A. (S.R.) No.1986 of 2014 in L.G.C. No.32 of 2001 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad - respondent No.1, and with a consequential direction to quash the order, dated 19.04.2006, in L.G.C. No.32 of 2001 in respect of observation of the Court as to recording compromise subject to registration of the Memorandum of Compromise with an alternative relief to direct respondent No.5 - Sub-Registrar, Golconda (Hyderabad - South), Hyderabad, to register the compromise decree forwarded by respondent No.1.

2 (a) The facts that gave rise to the instant writ, in brief, are that on 06.06.1997, petitioner purchased an extent of 200 square yards of land situated at Santosh Nagar Colony, Mehdipatnam, Gudimalkapur, Hyderabad, from one Shaik Abdullah, who purchased it from his predecessor in title on 20.05.1988, and, according to the petitioner, he has improved the said plot. Meanwhile, one Smt. K. Prabhavathi and three others filed L.G.C. No.32 of

2001 on the file of respondent No.1 to declare the vendor of the petitioner and others as land grabbers in respect of an extent of 3,250 square yards of land in Survey Nos.345, 361 and 362 part of Gudimalkapur Village,
Asif Nagar Mandal, Hyderabad District. According to the petitioner, his vendor was made as respondent No.5 in the L.G.C. and the property he purchased was shown as 'Schedule - E'. He states that he made an application in I.A. No.514 of 2003 to implead himself and the same was allowed by the orders, dated 16.06.2003, and he was impleaded as respondent No.11 in the L.G.C. He entered into compromise with the petitioners in L.G.C. and made an application in I.A. No.362 of 2006 under Order - XXIII Rule - 3 of the Code of Civil Procedure, 1908 requesting respondent No.1 to record compromise, and the same was allowed and the compromise was recorded on 19.04.2006 concerning 'Schedule - E' property. At one stage, petitioner states that the petitioners in L.G.C. No.32 of 2001 merely confirmed his right, title, interest and possession over the subject property and withdrawn all their claims and, thus, no fresh transfer of any right or title was conveyed or conferred on him.

(b) Petitioner states that despite transferring the compromise decree to respondent No.5, it was not registered and in turn, respondent No.5 addressed respondent No.3, and, thus, there was correspondence between respondent Nos.3 and 5 and went on delaying registration of the document. It is according to him that as his efforts proved abortive, he moved an application in I.A. No.329 of 2010 requesting respondent No.1 to direct respondent No.5 to register the compromise decree and the same was acceded to and an order was passed on 25.03.2010 and the decree was transferred from respondent No.1 to respondent No.5 through the letter, dated 13.04.2010.

Later, registration of compromise decree was prolonged on one pretext or the other and even there was correspondence between respondent Nos.4 and 3 seeking clarification as to whether stamp duty should be collected for the entire extent of 3,250 square yards of land and whether the decree can be registered under Section 23 of the Registration Act, 1908 (for short 'the Act') which mandates that a decree has to be presented within four (4) months from the date on which the order was made.

(c) The petitioner having got dissatisfied, again filed L.G. I.A. (S.R.) No.1986 of 2014 requesting respondent No.1 to issue an appropriate clarification and direction to respondent No.5 to register the compromise decree, dated 19-04-2006, in respect of

200 square yards of land. According to him, since the matter was kept pending and there was no Presiding

Officer to the Special Court and since he is advancing in life, constrained to approach this Court and file the instant writ petition for the aforesaid relief.

(d) Respondent No.5 filed counter affidavit raising various pleas, more particularly, referring to Section 47-A of Schedule - I-A to the Indian Stamp Act, 1899 stating that the memorandum of compromise and the decree amount to a sale chargeable with stamp duty as there is no duty stamped sale deed in favour of the petitioner in respect of Schedule - E property. Though, respondent No.5 referred to details of correspondence seeking clarification from respondent No.1 and the correspondence between respondent Nos.4 and 3, but, in paragraph No.6, emphatically admits that the compromise decree, dated 19-04-2006, pursuant to the orders dated 25-03-2010 in I.A. No.329 of 2010, was received in the Sub-Registrar's office, Gudimalkapur for registration on 13-04-2010. We are of the view, that other details narrated in the counter affidavit by respondent No.5 needs no advertence in the context of resolving the present issue.

3. Heard Sri V. Hari Haran, learned counsel for the petitioner, and the learned Government Pleader for Assignments (Telangana).

4. Though, initially, learned counsel for the petitioner

contended that there was no transfer of property as such to pay stamp duty, ultimately conceded that the compromise decree is subject to payment of stamp duty and registration charges. He would submit that since the compromise decree was passed in the year 2006 and sent to respondent No.5, stamp duty on the basis of market value prevailing during the year 2006 be levied and sought to issue such a direction to respondent No.5.

5. We are not convinced with the said argument for the reason that no material is placed by the petitioner to show that the compromise decree was transmitted from respondent No.1 to respondent No.5 in 2006. Further, the petitioner has not chosen to place any material to show that he has submitted a copy of the compromise decree to respondent No.5 within four (4) months from the date of passing of decree in 2006 requesting to register the same. However, it is forthcoming from the affidavit of the petitioner and counter affidavit of respondent No.5 that the compromise decree passed on 19-04-2006 passed in L.G.C. No.32 of 2001, so far as the petitioner is concerned, was received in the office of Sub-Registrar on 13-04-2010 pursuant to the orders, dated 25-03-2010 in I.A. No.329 of 2010.

6. In that view of the matter, we are of the considered view, that the compromise decree was transmitted by respondent No.1 to respondent No.5 within

four (4) months from the date of passing of the order, dated 25.03.2010, in I.A. No.329 of 2010, and, since satisfies the requirement of Section 23 of the Act, it has to be construed that presentation of document was only on 13-04-2010, and, therefore, stamp duty on the basis of market value prevailing as on that day i.e., 13-04-2010 shall be levied on the compromise decree. So far as registration charges of the document are concerned,
the same shall be levied at the rate prevailing as on the date of registration.

7. Thus, the instant writ petition is allowed to the extent of acceding to the alternative relief sought for by the petitioner.

8. Accordingly, the Writ Petition is allowed directing respondent No.5 to levy stamp duty on the basis of market value prevailing as on 13-04-2010 and the registration charges at the rate prevailing as on the date of registration and register the compromise decree, as indicated above. There shall be no order as to costs.

9. As a sequel thereto, Miscellaneous Petitions, if any, pending stand disposed of.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

January 21, 2016.

PV/Mgr