

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos. 12095 of 2004 and 21814 of 2011

COMMON ORDER:

These two writ petitions are being disposed of by this common order as the property in both the matters is one and the same.

Heard learned counsel for the petitioners, learned Government Pleader for official respondents and learned counsel for un-official respondents.

Petitioner No.1 in W.P.No.12095 of 2004 sold land bearing plot No.51, admeasuring 418 square meters, in Survey No.129/101, situated at Shaikpet Village, Golkonda Mandal, Hyderabad District to the petitioners in W.P.No.21814 of 2011. Thus, the petitioners in the latter writ petition became the title holders of the aforesaid land.

The case of petitioner No.1 in W.P.No.12095 of 2004 is that the aforesaid plot was purchased by him under a registered sale deed, dated 15.07.1968, from Mr.Shaik Mastan Saheb and Mr.P.Sudersan, who purchased an extent of Acs.5.00 of land from its pattadar and possessor, Smt.Afzalunnisa Begum, under a registered sale deed, dated 16.11.1967. Thus, petitioner No.1 in W.P.No.12095 of 2004 claims to be in possession and enjoyment of the land from 1968 to 1989. He states that when he was out of place, the unofficial respondents trespassed into the land and

constructed a building without obtaining any permission from the Municipal Corporation of Hyderabad. When his complaints to the Municipal Corporation of Hyderabad and the Police did not yield any result, he filed LGOP No.940 of 1990 before the learned Chief Judge, City Civil Court, Hyderabad against the unofficial respondents and the said case was allowed in his favour on 28.06.2002 by declaring the unofficial respondents as land grabbers and directed them to pay compensation of Rs.5,00,000/- and mesne profits of Rs.3,00,000/-. Challenging the said order, the unofficial respondents preferred LGA No.13 of 2002 before the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad. The said appeal was allowed remanding the matter to the trial Court to decide Issue No.4 which was not discussed in the judgment. After remand, when the matter was taken up for consideration by the learned Chief Judge, it was brought to his notice by the unofficial respondents that in LGC No.103 of 1999 filed by the Government against 25 persons, including them, in respect of land to an extent of 4366 square meters falling in Survey No.403 of Shaikpet Village, a judgment was rendered in favour of the Government On 12.03.2004 holding the unofficial respondents, who were arrayed as respondent Nos.12 and 26 respectively, as land grabbers. However, the Special Court, in its judgment, observed as follows:

“In the light of the finding above, the application is allowed and the respondents are declared as land grabbers within the meaning of Act XII of 1982. As it is represented that the

respondents have approached the Government for regularisation of their occupations, Government may consider their request under the relevant G.Os. The respondents are directed to deliver possession of the application schedule property to the applicant-State within a period of three months from the date of the judgment if they do not obtain regularisation from the Government within that period. In case they fail to do so, the R.D.O concerned is directed to initiate steps for evicting the respondents from the application schedule land and deliver the same to the applicant-State within a period of two months after expiry of three months fixed above and submit a compliance report under Rule 15 of Rules framed under Act XII of 1982 to this Court.”

It appears that in view of the said observation, the unofficial respondents submitted a representation on 26.03.2004 to the District Collector, Hyderabad requesting him to regularise their unlawful possession of the land in question. When the said representation was pending before the District Collector, W.P.No.12095 of 2004 was filed seeking a writ of prohibition against the District Collector, Hyderabad from exercising his powers of regularisation. During the pendency of the writ petition, the land was sold by petitioner No.1 in W.P.No.12095 of 2004 in favour of the petitioners in W.P.No.21814 of 2011. In the meanwhile, the Government issued G.O.Ms.No.166, Revenue (Assn.POT) Department, dated 16.02.2008. Pursuant to the said Governmental Order, the application of the unofficial respondents was considered and the orders of regularisation were passed. Aggrieved by the said order and the execution of the sale

deed in favour of the unofficial respondents on 28.07.2010, W.P.No.21814 of 2011 was filed.

It appears that LGOP No.940 of 1990, which was remanded to the learned Chief Judge on one issue, is still pending. Since the Government succeeded against the unofficial respondents in LGC No.103 of 1999, by the order of the Court, dated 12.03.2004, the petitioners in W.P. No. 21814 of 2011 filed O.S.No.443 of 2004 before the II Additional Chief Judge, City Civil Court, Hyderabad seeking declaration of their rights over the land against the Government and the same is also pending.

The dispute between the petitioners and the unofficial respondents pertains to an extent of 418 square meters of land in Survey No.129/101, situated at Skailkpet Village, Golkonda Mandal, Hyderabad District and structures were existing even by the date of filing LGOP No. 940 of 1990.

Learned counsel for the petitioners in W.P.No.21814 of 2011 submitted that when the litigation is pending at the instance of the petitioners against the unofficial respondents to hold them as land grabbers, the District Collector ought not to have regularised the possession of the unofficial respondents. He relied on the judgment of the Hon'ble Supreme Court in **Y.Satyanarayan Reddy Vs. Mandal**

Revenue Officer, Andhra Pradesh¹, wherein it was held that a land grabber shall not be allowed to continue in possession of the Government land on payment of its market value as compensation would amount to breaking open an escape-hatch to denude the act of its object and purpose.

Learned counsel for the unofficial respondents submitted that pursuant to the observation made by the Special Court, the regularisation was made and it cannot be held to be illegal.

In the instant case, the regularisation was made after issuance of G.O.Ms.No.166, dated 16.02.2008 and after holding the unofficial respondents as land grabbers by the competent Court. The order of the Special Court has become final and the effect of G.O.Ms.No.166, dated 16.02.2008, did not fall for consideration in the judgment cited above. Hence, *prima facie*, it cannot be held that the action of the District Collector regularising the unlawful possession of the unofficial respondents is bad in law, but, in view of pendency of LGOP No.940 of 1990 and O.S.No.443 of 2004, the rights of the petitioners in these writ petitions have to be protected and the unofficial respondents shall not be allowed to have absolute rights ignoring the pending litigation.

In the circumstances, the writ petitions are disposed of directing the unofficial respondents not to create any third party

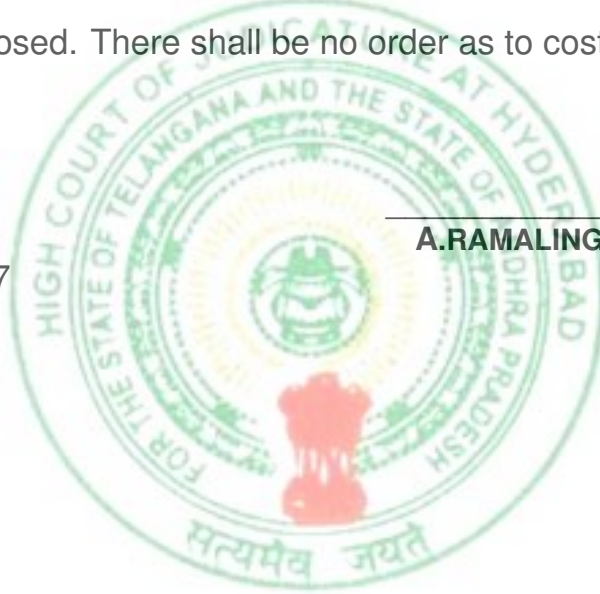
¹ 2010 ALT (Rev.) 189 (SC)

interest or alienate the property pending disposal of LGOP No.940 of 1990 and O.S.No.443 of 2004. In view of disposal of these writ petitions, it is needless to observe that the rights of the unofficial respondents would be subject to the orders that may be passed by the competent Courts in LGOP No.940 of 1990 and in O.S. No.443 of 2004. In the event the petitioners succeed in the litigation, the respective Courts shall pass appropriate orders working out the equities taking into consideration the circumstances of the case.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed. There shall be no order as to costs.

Dt:08.06.2017

kdl



A.RAMALINGESWARA RAO,J