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

The Hon'ble Sri Justice V.RAMASUBRAMANIAN
and
The Hon'ble Mrs. Justice T. RAJANI

<u>Writ Petition No.22897 of 2017</u>

Between:

Yedlapalli Nagendramma, W/o Subba Rao, aged About 54 years, D.No.17-86, Patha Madigapalli, Tanguturu village and Mandal, Prakasam District

… Petitioner

Vs.

1. The State of Andhra Pradesh, represented represented by its Principal Secretary to Government, Revenue (Commercial Taxes) Department, Secretariat Complex, Velagapudi, Amaravathi.

2. The Commissioner of Commercial Taxes, Andhra Pradesh, Commercial Taxes Complex, D.No.5-59, R.K. Spring Valley Apartments, Bandar Road, Eedupugallu village, Kankipadu Mandal, Vijayawada, Krishna District.

3. The Commercial Tax Officer, Main Bazar Circle, Guntur Guntur District.

4. The Commercial Tax Officer, Ongole II Circle, D.No.37-1-401, Vijaya Complex, Dharavari Garden, Ongole, Prakasam District

5. The Deputy Commissioner, Commercial Tax Department, D.No.15/505, 1st floor, C.T. Complex, R.R. Street, Nellore, Nellore District.

6. The Sub-Registrar, Stamps and Registration Department, Tanguturu Sub-Registrar Office, Tanguturu, Prakasam District.

….. Respondents

For Petitioner	:	Mr. Badri V. Reddi
For Respondents	:	S. Suribabu, learned special Standing counsel

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MRS. JUSTICE T. RAJANI

Writ Petition No.22897 of 2017

ORDER: *(V. Ramasubramanian, J)*

The petitioner has come up with the above writ petition, challenging a notice issued by the 3rd respondent herein, seeking to invoke the surety bond allegedly executed by the petitioner in favour of a dealer.

2. Heard Mr. Badri V Reddi, learned counsel for the petitioner and Mr. S. Suribabu, learned special standing counsel for the Department.

3. The impugned notice has been issued on the ground that a registered dealer by name M/s. Sri Govind Granites are in arrears of tax to the tune of nearly Rs.27.00 lakhs under the Andhra Pradesh VAT & CST Act and that the petitioner herein had executed a surety bond offering her immovable property as security. The contention of the petitioner is that she does not even know, who is the dealer and that she never executed any security bond nor did she offer any property as security.

4. In the light of the stand so taken by the petitioner, this Court directed the learned standing counsel to get instructions. Today, the learned standing counsel produced the records. The records contained a surety bond executed by a person whose name, whose husband's name and whose address, tally with the name of the

husband and the address of the petitioner. But the signature found in the original surety bond, is completely at variance with the signature of the writ petitioner herein. The petitioner appears to be the owner of a small plot measuring an extent of 184.6 square yards. She is also not a dealer. The dealer in the case on hand is actually a registered firm. Therefore, the surety bond executed by some body, though in the name of the petitioner, cannot be relied upon by the respondents.

5. Unless the identity of the party is cleared and unless the offering of immovable property as security by the original owner is clearly borne out, it is not possible to fasten liability upon the third party like the petitioner. Hence, the writ petition is allowed and the impugned notice is set aside. It will be open to the Department to take action against the dealer.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

T. RAJANI, J

Date: 31-07-2017

Ksn