

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.35789 OF 2017

Date: 27.10.2017

Between:

Dr. Ratnam V.Mullapudi, S/ Ramana, Aged about 78 years,
R/o M/s. Usha Mullapudi Cardiac Centre, Gajularamaram
Village, Qutubullapur Mandal, Ranga Reddy District and
others.

.....Petitioners

and

State of Telangana, rep.by its Principal Secretary,
Revenue Department, Secretariat, Hyderabad and
others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard learned senior counsel Sri A.Satya Prasad, holding for Sri Balaji Medamalli, learned counsel on record, learned Government Pleader for Revenue (TG) for respondents 1 to 3 and learned counsel Sri M.V.Durga Prasad appearing for 6th respondent.

2. Shorn of details, it is sufficient to note at this stage that proceedings are pending before the Joint Collector, Medchal – Malkajgiri District (2nd respondent), on an appeal filed by the 4th respondent herein and petitioners herein are respondents 19, 20, 21 and 18, respectively.

3. In this writ petition, petitioners challenge the order of the Joint Collector, dated 26.08.2017. By this order, Joint Collector issued the following directions:

“Therefore, the above three I.A. petitions filed by the appellant are hereby allowed by this common order. The R.19 to R.21 are directed to arrange to produce their alleged vendor namely, Sri K.S.N.Raju before this Court with original sale deeds. The R.19 the alleged GPA holder of the R.21 is directed to arrange to make appearance of the R.21 before this Court for examination. The R.19 is further directed to produce the original General Power of Attorney dated 23.09.1999 stated to have been executed by the R.21. The case is posted to 16.09.2017.”

4. A bare reading of above order would disclose that there was objection and counter objection on the representation by the General Power of Attorney (GPA), respectively, for appellant and 21st respondent. On the objection filed by the petitioners herein on validity of GPA

representing the appellant, matter was considered and the Joint Collector is satisfied with the explanation given on behalf of the appellant. With reference to the objection raised by the appellant on the validity of GPA and on competence of 19th respondent representing 21st respondent, the Joint Collector passed orders, impugned in this writ petition, extracted above.

5. Both counsel made extensive submissions on merits.

6. Learned senior counsel appearing for petitioners contended that appeal was filed beyond limitation period. Therefore, objection was raised on the maintainability of the appeal filed after more than 4½ years. Without considering the said objection, Joint Collector is proceeding to decide the matter on merits and present order is result of such decision of the Joint Collector and, therefore, is not valid. According to the learned senior counsel, unless delay condonation petition is decided, Joint Collector cannot go into the merits. Per contra, learned counsel Sri M.V.Durga Prasad contended that though objection of the maintainability was raised by the petitioners, however preliminary objection was raised on locus standi of the respective petitioners representing the matter and in the process of raising the objection only appropriate applications were filed and on consideration of those applications, order impugned was passed. As of now, the appeal is not considered on merits. The directions issued are necessarily to be complied, before considering the objection of the petitioners on maintainability of the appeal on the ground of delay and, therefore, contention of the learned senior counsel that Joint Collector is proceeding to decide the matter on merits without considering the objection on maintainability of the appeal is not valid.

7. It appears from the reading of the order, on behalf of the appellant, I.As were filed for production of Sri K.S.N.Raju (3rd respondent)

before the Joint Collector; for appearance of 21st respondent i.e., 3rd petitioner herein; and for production of original GPA stated to have been executed by the 21st respondent in favour of 19th respondent. A bare perusal of the order would disclose that order was passed in interlocutory applications on the objections to the locus of the respondents to oppose the appeal filed by the 4th respondent. Thus, it cannot be said at this stage that Joint Collector is proceeding to decide the appeal even before the maintainability of appeal on the ground of delay was considered and decided. Therefore, there is no merit in the contention urged on that ground. The interlocutory orders are passed on consideration of applications filed. I do not see any error in the directions issued by the Joint Collector with reference to production of original GPA dated 23.09.1999 and to arrange appearance of 21st respondent.

8. At this stage, learned senior counsel submits that Jyothi Mullapudi, 3rd respondent herein and the 21st respondent in the appeal before the Joint Collector, lives in United States of America and it is difficult for her to appear in person. At this stage, on a suggestion made to hold proceedings through Video Conference learned senior counsel Sri A.Satya Prasad, Sri Durga Prasad and learned Assistant Government Pleader agree that Jyothi Mullapudi can appear through Video Conference facility and give her deposition. Learned senior counsel as well as learned counsel Sri Durga Prasad have stated that with mutual consent, they will indicate a date and time when video conference can be held and directions be issued to the Joint Collector to hold video conference on the date and time indicated. Learned senior counsel also submits that parties will make appropriate representations before the Joint Collector on the issue of production of original GPA.

9. Sri K.S.N.Raju is one of the respondents before the Joint Collector. The appellant was insisting for appearance of Sri K.S.N.Raju. By the order impugned direction was also issued to the petitioners herein,

before the Joint Collector to produce K.S.N.Raju before the Court with original sale deeds. Learned senior counsel submits that K.S.N.Raju being a party, the Joint Collector ought to have issued summons on Sri K.S.N.Raju for appearance and production of documents, but cannot mandate other respondents to ensure production of said person merely because the petitioners herein make submissions that K.S.N.Raju was the vendor to the respondents 19 and 21. Leaned counsel Sri Durga Prasad fairly submits that petitioners herein need not be compelled to produce K.S.N.Raju as independent orders were passed by the Joint Collector for his appearance. In view of the said submissions, direction issued to that extent is not sustainable.

10. Having regard to the submissions made and findings, writ petition is disposed of with the following order/ directions:

i) The order of the Joint Collector directing the respondents 19 to 21 before him to produce Sri K.S.N.Raju, who is 3rd respondent in the appeal, with original sale deeds is not sustainable and is accordingly set aside. This order does not come in the way of any direction issued by the Joint Collector for appearance of 3rd respondent before him;

ii) With mutual consent a date shall be fixed for appearance of 21st respondent (3rd petitioner herein) before the Joint Collector through Video conference facility and on the said date, 21st respondent shall appear and give her deposition. Learned senior counsel and learned counsel Sri Durga Prasad shall fix a date with mutual consent. Learned counsel on record appearing for parties shall inform the date in advance to the Joint Collector for holding video conference and on the said date all arrangements shall be made for recording the statement of 21st respondent (3rd petitioner herein) through Video Conference mode;

iii) It is open to the petitioners herein to place on record any material to satisfy the Joint Collector about the execution of GPA and availability of original GPA.

iv) No further proceeding should be conducted till statement of 21st respondent (3rd petitioner herein) is recorded.

v) It is made clear that Court has not expressed any opinion on merits on the matter pending before the Joint Collector.

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

JUSTICE P.NAVEEN RAO

Date: 27.10.2017

Note: Issue C.C. in three days

(B/o)

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