

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.24223 of 2018

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development appearing for respondent No.1, Sri D.Ramesh and G.Seshadri, learned Standing Counsel for respondent Nos.2 and 3 respectively and Sri Y.Ashok Raj, learned counsel appearing for the fourth respondent, apart from perusing the material available before this Court.

In the present Writ Petition challenge is to the permission, vide permit No.1168/4692/B/VJA/GLPD/2018, dated 05.03.2018, granted in favour of the fourth respondent herein and the letter in File No. 1168/ 4682/ B/ VJA/ GLPD/ 2018, dated 22.05.2018, of the APCRDA, Vijayawada.

Petitioner herein, along with two others, instituted O.S.No.251 of 1984, on the file of the I Additional Senior Civil Judge, Vijayawada, seeking partition against nine defendants arraying M/s Annapurna Cooperative Building Society as the ninth defendant from whom Smt.K.Sridevi obtained the subject property and who in turn sold it to one Smt.R.Saroja on 11.02.2004 from whom the fourth respondent herein is claiming title to the property. The said suit, instituted for partition, was dismissed by the I Additional Senior Civil Judge, Vijayawada. As against the said judgment and decree, petitioner herein, along with two others, filed A.S.No.01 of 2001. In C.M.P.No.60 of 2001

in A.S.No.01 of 2001, this Court passed an interim order, directing the respondents therein not to alienate the plaint schedule property.

According to the petitioner herein, despite the objections raised by her, second respondent granted building permission in favour of the fourth respondent on 05.03.2018. It is evident from the material on record that on 23.03.2018 and 27.03.2018 petitioner herein submitted representations before the APCRDA-second respondent herein, duly bringing to the notice of the second respondent about the pendency of the appeal before this Court and the interim order granted in C.M.P.No.60 of 2001.

A reading of the order, dated 22.05.2018, in clear and vivid terms, discloses that the APCRDA-second respondent herein rejected the request of the petitioner herein on the ground that, in view of the order of the Honourable Supreme Court in **ASIAN RESURFACING OF ROAD AGENCY PVT LTD & ANOTHER v. CENTRAL BURUEAU OF INVESTIGATION**¹, the stay granted by this Court, in C.M.P.No.60 of 2001 in A.S.No.01 of 2001, stood vacated. It is also evident from the material on record that on 30.05.2018 petitioner herein submitted a representation stating that the judgment of the Honourable Supreme Court would not apply to the present situation.

In the above background, the principal contention advanced by the learned counsel for the petitioner is that the order of the Honourable Supreme Court, in C.M.P.No.60 of 2001

¹ 2018 Law Suit (SC) 279

in A.S.No.01 of 2001, referred by the second respondent herein, in the impugned order, dated 22.05.2018, cannot be made applicable to the present case on hand. A copy of the said judgment is placed on record by the learned counsel for the petitioner. Paragraph No.35 of the said judgment reads as under:

“In view of above, situation of proceedings remaining pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, intimation is not received and proceedings are not taken up. In an attempt to remedy this, situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial Court where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced.

While referring to the above said paragraph, it is submitted by the learned counsel that the directions of the Honourable Supreme Court are applicable to the cases where there is a stay of proceedings but not to the cases where there is an interim order restraining the alienation.

Since the representation, dated 30.05.2018, is pending consideration before the second respondent, this Court deems it

appropriate to dispose of the Writ Petition, by directing the same to be treated as an application, under Section 450 of the Hyderabad Municipal Corporation Act, 1955, with a further direction to the second respondent to take appropriate action on the said representation, dated 30.05.2018, after taking into consideration the submissions made on behalf of the petitioner, in the preceding paragraph, including the applicability of the order of *status quo*, and pass orders after giving notice to all the stakeholders, as expeditiously as possible, preferably within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

20th August, 2018
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A.V.SESHA SAI,J