

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

WRIT PETITION NO.43198 OF 2017

ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

The certiorari jurisdiction of this Court is invoked by the petitioner herein questioning the order passed by the District Collector, Ranga Reddy, in his proceedings dated 02.11.2017, as illegal, arbitrary and in contravention of Section 125 of the Code of Criminal Procedure (Cr.P.C.), and the Revenue Recovery Act.

Facts, to the limited extent necessary, are that the fifth respondent herein filed a criminal case against the petitioner herein for the offence under Section 498-A of the Indian Penal Code. She also filed a maintenance case under Section 125 Cr.P.C., in M.C.No.13 of 2012, on the file of the Additional Metropolitan Sessions Judge, Hyderabad. In the maintenance case, the petitioner herein was directed to pay maintenance to the fifth respondent and their five daughters (petitioner is the husband of the fifth respondent) for a total sum of Rs.24,000/- per month. Aggrieved thereby, the petitioner filed CrI.RC (SR) No.47386 of 2014 and this Court, by its order in CrI.MP.No.1061 of 2016 dated 25.09.2017, reduced the amount payable to Rs.21,000/- per month i.e. Rs.4,000/- per month each to the fifth respondent and the first two daughters, and Rs.3,000/- per month each to the third, fourth and fifth daughters. The petitioner was permitted to pay the arrears of Rs.6,56,000/-, in three instalments, to the fifth respondent and the children.

On the ground that the petitioner failed to pay the amount, the Additional Metropolitan Sessions Judge, Hyderabad, by his order in CrI.MP.No.1061 of 2016 in M.C.No.13 of 2012 dated 15.11.2017, directed the District Collector to initiate revenue recovery proceedings. Pursuant thereto, the District Collector issued proceedings dated 02.11.2017 directing the Tahsildar to proceed against the movable and immovable properties of the petitioner; and intimate the action taken under the warrant, upon its execution, to the Court. Aggrieved thereby, the present Writ Petition is filed.

After arguing for some time, Sri Mohd. Osman Shaheed, learned counsel for the petitioner, would concede that the action of the District Collector, in initiating proceedings under the Revenue Recovery Act, may not suffer from lack of jurisdiction. Learned counsel would, however, contend that the learned Additional Metropolitan Sessions Judge, Hyderabad had failed to take into consideration a sum of Rs.2,46,000/- which the petitioner had paid on 22.07.2013, Rs.50,000/- deposited by him in the bank account of the fifth respondent, and Rs.1,00,000/- paid by him pursuant to the interim order of this Court.

While admitting receipt of Rs.1,00,000/-, pursuant to the interim order passed by this Court on 19.12.2017, Sri A.Ravi Shankar, learned counsel for the fifth respondent, would deny receipt of the other two amounts. It is unnecessary for us, in writ proceedings under Article 226 of the Constitution of India, to undertake a detailed examination of whether or not the petitioner had paid the aforesaid amounts totalling to Rs.2,96,000/-. Since receipt of Rs.1,00,000/- is admitted, the total arrears as directed

by this Court is Rs.5,56,000/-, with respect to which the petitioner claims to have paid a sum of Rs.2,96,000/-.

On payment of Rs.2,60,000/- to the fifth respondent, by way of a banker's cheque/demand draft, within three (3) weeks from today, it is open to the petitioner to make an application to the Additional Metropolitan Sessions Judge, Hyderabad, furnishing details of the payment, which he claims to have already made, i.e Rs.2,96,000/-, within two (2) weeks. On furnishing proof of payment of Rs.2,60,000/- within three weeks from today, the learned Additional Metropolitan Sessions Judge, Hyderabad shall examine the petitioner's claim to have paid Rs.2,96,000/- earlier, and recall the warrant in case these amounts are established to have already been paid. Suffice it to make it clear that, in case the petitioner does not pay the aforesaid sum of Rs.2,60,000/- to the fifth respondent within three weeks from today, proceedings under the Revenue Recovery Act shall continue; and the entire amount, directed to be recovered by the District Collector, shall be recovered in accordance with law.

Subject to the aforesaid observations, the Writ Petition fails and is accordingly dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

10th August 2018
RRB