

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.2155 OF 2019

ORDER

This writ petition was filed with the following prayer:

'For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in registering the Deeds of Cancellation of Gift Settlement Deeds bearing Doc.Nos. 3138, 3139 and 3140 of 2008 dt. 25-4-2008 executed by the 4th respondent, cancelling the registered Gift Deeds bearing Doc.Nos.1856, 1857 and 1858 of 2000 dt. 16-3-2000 without issuing any notice and without following the procedure contemplated under the Statute as being illegal, arbitrary, unilateral, unconstitutional and violative of Rule 26 (i)(k)(i) and Sec. 69 of Registration Act, 1908 and Sec. 126 of Transfer of Property Act, 1882, besides violative of Article 21 and 300-A of the Constitution of India and the orders passed by the Hon'ble Supreme Court of India in Civil Appeal No. 317/2007 and batch dt. 13-7-2010 and consequently direct the Respondent Nos. 2 and 3 herein to delete the entries made in the Encumbrance Certificate, and to grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.'

The learned Assistant Government Pleader for Revenue, State of Telangana, brought it to the notice of this Court that the petitioners herein earlier filed a writ petition on the same lines. Having made enquiries into the matter, he reported that W.P.No.15484 of 2018 was filed by the petitioners earlier. The prayer in the said writ petition reads as under:

'For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ or order more particularly one in the nature of writ of mandamus

declaring the action of the respondents 3 and 4 in registering cancellation of gift settlement deeds bearing document Nos. 3138 of 2008 dated 25-4-2008 and cancellation of gift settlement deed bearing document No. 3139 of 2008 dated 25-4-2008 executed by the 5th respondent in respect of the petitioners property i.e. middle portion of house bearing No. 1 103/B/4 in survey No. 49/ part admeasuring 305 5 sq yards situated at Madhapur village Serilingampally mandal and municipality Rangareddy District belongs to the 1st petitioner and western portion of house bearing No. 1103/B/4 in survey No. 49/ part admeasuring 389 sq yards situated at Madhapur village Serilingampally mandal and municipality Rangareddy District belongs to the 2nd petitioner without notice to the petitioners as illegal arbitrary unjust and also against the mandatory provision u/s 68 of the Registration Act 1908 and Rule 26 (i)(k)(i) and also Section 90 of Indian Evidence Act 1972 and also against the Principles of Natural Justice.'

He would further inform this Court that the petitioners withdrew W.P.No.15484 of 2018 without seeking liberty to file a fresh writ petition. A copy of the order dated 15.12.2018 passed in W.P.No.15484 of 2018 is placed on record and it bears out this fact.

That apart, perusal of the affidavit filed in support of this writ petition demonstrates that the petitioners did not even choose to disclose the fact that they earlier filed W.P.No.15484 of 2018. In this regard, it would be apposite to refer to the observations of the Supreme Court in **K.D.SHARMA V/s. STEEL AUTHORITY OF INDIA LIMITED¹**:

'The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the

¹ (2008) 12 SCC 481

Writ Court must come with clean hands, put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.'

The failure on the part of the petitioners to disclose the fact that they earlier filed a writ petition for the same relief and the fact that they did not even choose to seek liberty to file a fresh writ petition at the time of withdrawing W.P.No.15484 of 2018 is fatal. The abuse of process on their part is writ large. As pointed out by the Supreme Court in **K.D.SHARMA¹**, it is not open to a litigant to approach this Court with unclean hands when he seeks exercise of discretionary writ jurisdiction by this Court under Article 226 of the Constitution. The writ petitioners have therefore disentitled themselves from seeking relief in this writ petition.

The writ petition is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

7th FEBRUARY, 2019

Sv

SANJAY KUMAR, J