

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE No.572 of 2019

ORDER :

This Contempt Case is filed by petitioners to punish the respondents for willful disobedience of the order dt.10-07-2018 in W.P.No.32428 of 2014 passed by this Court.

2. In the said order, this Court had noted that the lands of the petitioners' predecessor-in-title Mohd. Khaleel-ur-Rahaman of extent Ac.4.28 gts in Sy.No.201 and Ac.3.23 gts in Sy.No.202 of Yenugonda Village, Mahabubnagar Mandal and District were acquired under the provisions of Land Acquisition Act, 1894 for the benefit of 2nd respondent Society, and though compensation payable to the petitioners was enhanced by this Court on 02-04-2009 in A.S.No.174 of 2003 and 374 of 2003, and the said order was confirmed by the Supreme Court on 02-07-2012 in SLP (C.C) Nos.547-548 of 2012, the amounts were not paid by respondents. This Court granted six weeks time from the date of its order to comply with the judgment and decrees in the said appeals by depositing the compensation determined to the credit of E.P.No.4 of 2014 and E.P.No.5 of 2014 pending before the Senior Civil Judge, Mahabubnagar. This Court made it clear that till the amount is deposited, the 2nd respondent or its member shall not be permitted to sell or alienate any of the plots owned by the members of the said Society. It further directed as under:

“21. Till the amount is deposited, the 2nd respondent or its members shall not be permitted to sell or alienate any of the plots owned by the members of the said Society. It is open to the 1st respondent as well as the State of Telangana represented by Principal Secretary, Revenue Department to sell the plots of the members of the 2nd respondent Society as well as the plots which are yet to be allotted by 2nd respondent for recovery of the compensation amount payable to the petitioners to satisfy the decree and judgment dt.02-04-2009 in A.S.Nos.174 of 2003 and 374 of 2003 and they shall proceed to do so, if within four (04) weeks period granted by this Court the 2nd respondent has not satisfied the decrees in A.S.Nos.174 of 2003 and 374 of 2003; and the Government of Telangana, after selling the property through distraint order proceedings under the A.P. Revenue Recovery Act, shall deposit the proceeds to the credit of E.Ps. referred to above.”

3. Notwithstanding the same, it appears that 1st respondent did not communicate this order to the Joint Sub-Registrar-I, Mahabubnagar till 01-10-2018 and the said Joint Sub-Registrar registered two sale deeds in respect of two plots bearing Nos.277 and 332 belonging to the members of the 2nd respondent Society and registered the same vide Doc.No.16184 of 2018 on 17-12-2018 and Doc.No.1640 of 2019 on 24-01-2019.

4. I.A.No.2 of 2019 was filed to implead the Principal Secretary, Revenue, District Collector and District Magistrate, Mahabubnagar and the Joint Sub-Registrar-I, Mahabubnagar, who registered the sale deeds referred to supra. The said application was ordered on 14.6.2019.

5. This Court also impleaded *suo motu* on 10-07-2019 respondent Nos.6 to 11 who are vendors under the sale deeds Doc.No.16184 of 2018 dt.17-12-2018 and Doc.No.1640 of 2019. Notices were also sent to these persons. Notices sent to respondent Nos.6, 8 and 10 were returned with endorsement “out of country”, and notice sent to 7th respondent was returned with endorsement “unclaimed”, notice sent to 9th respondent was refused and notice sent to 11th respondent was served.

6. In my considered opinion, respondent Nos.6 to 11 are deemed to have been served since notices were sent to the addresses mentioned in the sale deeds referred to above and if some of them had left the county without leaving a forwarding address, they cannot contend that the notices have not been served on them.

7. It is also pertinent to note that against the order passed in the Writ Petition, some of the members of the 2nd respondent Society had filed W.As.No.574 and 575 of 2019, and the Division Bench of this Court by order dt.16-8-2019 affirmed the order passed in the Writ Petition and recorded an undertaking filed by 79 appellants making it clear that sale of these plots of those 79 appellants was stayed since they promised to deposit the amount as directed in the said undertaking.

8. In this view of the matter, there cannot said to be any merger of the order passed in the Writ Petition with the order passed by the Division Bench in W.A.Nos.574 and 575 of 2019.

9. The Joint Sub-Registrar, Mahaabubnagaar-1, who was impleaded as 5th respondent filed a counter-affidavit taking the plea that he was not a party in the Writ Petition and he did not receive copy of the order except a representation dt.01-10-2018 submitted by 2nd petitioner herein. He however admitted to have received a letter addressed by the 1st respondent on 04-07-2019 instructing him not to entertain any transaction and register alienation of plots in Sy.Nos.201 and 202 of Yenugonda village enclosing a list containing the names of the members of the Society, plot numbers and extent therein. He claimed that the two documents were registered inadvertently as the executants thereof were not the members of the 2nd respondent Society.

10. When the 2nd respondent had given a representation on 01-10-2018 informing the 5th respondent about the order passed on 10-07-2018 in W.P.No.32428 of 2018 and enclosed a copy of the order passed by this Court on 10-07-2018 in W.P.No.32428 of 2018, the 5th respondent cannot contend that he was not aware of the said order. The letter dt.01-10-2018 contained an enclosure photocopy of High Court order in W.P.No.32428 of 2014.

11. It is also important to note that schedule of property in the sale deeds dt.24-01-2018 registered by 5th respondent at the instance of 11th respondent specifically mentioned that plot No.332 sold therein form part of the N.G.Os. Colony Phase-II in Sy.No.201 of Yenugonda village. Therefore, it is clear that 5th respondent, knowing fully well

about the order passed by this Court on 10-07-2018 in W.P.No.32428 of 2014, registered the sale deed in violation of the said order.

12. Even with regard to other sale deed dt.17-12-2018 executed by respondent Nos.6 to 10, the 5th respondent ought to have called for the link document i.e. registered document No.398/1995 in the name of the wife of 6th respondent, which clearly mentioned that plot No.277, which was subject matter of the said sale deed was alienated to the vendor by the said 2nd respondent Society. Therefore, the action of the 5th respondent in registering the sale deed dt.17-12-2018 is also in violation of the order passed on 10-07-2018 in W.P.No.32428 of 2014.

13. The defence of inadvertence taken by the 5th respondent is not *bona fide* and it has to be held that he deliberately and willfully registered both sale deeds in violation of the order passed on 10-07-2018 in W.P.No.32428 of 2014, which he was aware.

14. It is settled law that a contemnor cannot be allowed to enjoy the fruits of his action. The Supreme Court in **Delhi Development Authority Vs. Skipper Construction Co. (P) Ltd¹** has held that a contemnor ought not to be permitted to enjoy and/or keep the fruits of contempt. It held that the Court, in exercise of its inherent power, is bound to undo the wrong in the interest of justice and put back the parties in the same position as they stood immediately prior to the violation of the order.

¹ 1996(4) SCC 622

15. Therefore it is appropriate to declare that the said two sale deeds dt.17-12-2018 and 24-01-2019 executed in violation of the orders passed by this Court on 10-07-2018 in W.P.No.32428 of 2014 are null and void.

16. Accordingly, the Contempt Case is allowed with costs of Rs.10,000/- (Rupees Ten Thousand only) to be paid by respondent nos.1 and 2 to petitioners for delay in communicating to 5th respondent the order passed on 10-07-2018 in W.P.No.32428 of 2014; the 5th respondent is sentenced to fine of Rs.2,000/- (Rupees Two Thousand only) to be paid within four (04) weeks from date of receipt of copy of this order; in default he shall suffer simple imprisonment of 6 weeks; and it is declared that the sale deeds dt.17-12-2018 and 24-01-2019 (Doc.Nos.16184/2018 and 1640/2019) registered by 5th respondent in violation of the orders passed by this Court on 10-07-2018 in W.P.No.32428 of 2014 are null and void.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 18.10.2019

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