

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

CONTEMPT APPEAL No.51 of 2019

Date: 13.11.2019

Between:

Ch.Sudhakar Raju

.. Appellant

And

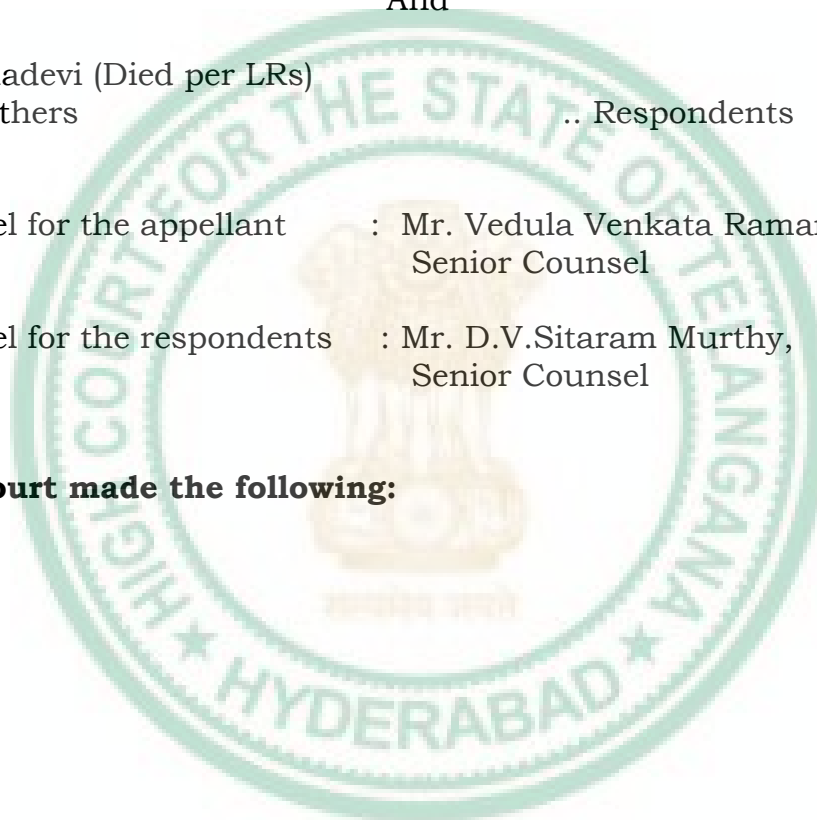
M.Ramadevi (Died per LRs)
and others

.. Respondents

Counsel for the appellant : Mr. Vedula Venkata Ramana
Senior Counsel

Counsel for the respondents : Mr. D.V.Sitaram Murthy,
Senior Counsel

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Aggrieved by the Order of the learned Single Judge, dated 18.10.2019, passed in C.C.No.814 of 2016, the present contempt appeal is filed by respondent No.2 in the contempt, who was impleaded *suo motu* by the High Court.

2) The brief facts of the case are that the Contempt Case was filed by respondent Nos.1 to 4 herein against respondent No.5 herein alleging that respondent No.5 has violated the order of the learned Single Judge passed in W.P.No.14613 of 2001, dated 30.04.2013, whereby the learned Single Judge has directed respondent No.5 i.e. Secretary, the Jubilee Hills Cooperative Housing Society Limited, to admit respondents No.1 to 4 herein as members of the Society, and to register the plot in their name "forthwith" vide order, dated 30.04.2013. When the Order of the Single Judge was not complied with, the respondent Nos.1 to 4 filed C.C.No.814 of 2016 alleging that respondent No.5 has deliberately not implemented the order of the High Court. Thus, he has violated the said order. At the hearing of the Contempt Case filed by the respondent Nos.1 to 4 herein, the 5th respondent has expressed his inability to register the plot, and to put respondent Nos.1 to 4 in physical possession of the plot on the ground that a third party to the litigation was in occupation and enjoyment of the said plot. The Single Judge concluded that the third party is causing obstruction for implementation of the order. Therefore, the learned Single Judge has *suo motu* impleaded him as respondent No.2 in the Contempt Case.

3) The learned Single Judge, while elaborately dealing with the matter, has passed the following order on 18.10.2019:

“Therefore, Contempt Case No.814 of 2016 is allowed; the 2nd respondent is directed to deliver vacant possession of the subject property to petitioners within a period of four (04) weeks, failing which he shall suffer simple imprisonment for three (03) months and shall also be liable to pay fine of Rs.2,000/-; the petitioners are also entitled to police aid from the jurisdictional Police Station/Deputy Commissioner of Police, West Zone and the Assistant Commissioner of Police, Banjara Hills, to evict the 2nd respondent from the subject property, if he does not voluntarily vacate it within the time above specified; the 1st respondent shall execute a registered Sale Deed in favour of petitioners or their nominee or one among them as per their wish, if not already executed, conveying title to the subject property to them within four (4) weeks from the date of receipt of copy of this order without fail. If not, the 1st respondent shall suffer simple imprisonment for a period of two (2) months with fine of Rs.2,000/-.

Aggrieved by the above order, the respondent No.2 has preferred the present Contempt Appeal.

4) Sri Vedula Venkataramana, the learned Senior Counsel appearing on behalf of Sri Vedula Srinivas, the learned counsel for the appellant, while contending that the learned Single Judge erred in passing the impugned Contempt order, dated 18.10.2019, has vehemently argued that the learned Single Judge went beyond the directions given in the Writ Petition No.14613 of 2001. Thus, the learned Single Judge could not have passed the orders under challenge in the Contempt directing the appellant to vacate the plot. It is the case of the Senior Counsel that when the direction specifies only to admit respondents Nos.1 to 4 herein as members and register the plot in their name, the learned Single Judge was

not legally justified in directing the appellant herein to vacate the premises within the specified time and giving a further direction to the police to evict the appellant herein, if he fails to deliver the vacant possession. The said direction is beyond the scope of the prayer in the Contempt Case.

5) Per contra, Sri D.V.Sitaram Murthy, the learned Senior Counsel appearing on behalf of Sri Padala Pravin Kumar, the learned counsel for respondents 1 to 4, has vehemently argued that for effective implementation of the order passed in W.P.No.14613 of 2001, it is necessary to see that the possession is also delivered to respondent Nos.1 to 4 at the time of execution of the sale deed. For, mere registration of the sale deed, without handing over possession, will not be an effective implementation of the order passed in the writ petition in its true letter and spirit. In fact, under Rule 27 of the Contempt of Court Rules, 1980, this Court has ample power to see that the orders passed by this Court are implemented effectively. He further contends that in exercise of the said power, this Court can *suo motu* implead any person who is a third party to the original proceedings, and give any direction to him for effective implementation of the order of the Court.

6) It is seen from the record that the appellant herein is claiming the property through one Sailaja Reddy. The said Sailaja Reddy, in a dispute raised before the Deputy Registrar of Cooperative Societies (Housing) in A.R.C.No.85 of 1993, had lost the case; an award dated 15.11.1995 was passed against her. Aggrieved by the said award, she had challenged the same before

the Cooperative Tribunal, in C.T.A.No.19 of 1996. The Cooperative Tribunal by its Judgment, dated 27.03.2001, confirmed the award passed in ARC No.85 of 1993, and dismissed the appeal. Thereafter, W.P.No.14613 of 2001 was filed challenging the Order, dated 27.03.2001, in C.T.A.No.19 of 1996, by Ashish Kumar Bhaukim and Smt.Tapati Bhaumik, who claim to have purchased the plot from Sailaja Reddy during the pendency of the litigation before the Cooperative Tribunal. The said writ petition was disposed of by order, dated 30.04.2013, directing the 5th respondent herein to admit respondent Nos.1 to 4 as its members, and to register the plot in their name. Challenging the order, dated 30.04.2013, passed in the writ petition, Writ Appeal Nos.841, 1509 and 1547 of 2013 were filed. All the said three Writ Appeals were withdrawn by the respective appellants. Consequently, the order of the learned Single Judge passed in W.P.No.14613 of 2001 has become final.

7) It is to be seen that the vendor of the appellant herein has lost her claim/right from the time, the award was passed against her, and in favour of respondent Nos.1 to 4 herein. Subsequently, she lost the appeal before the Cooperative Tribunal in C.T.A.No.19 of 1996, dated 27.03.2001. The Writ Petition *viz.*, W.P.No.14613 of 2001 filed against the order in appeal was also dismissed, and the writ appeals were also withdrawn.

8) Though the learned Senior Counsel appearing for the appellant has relied on the decisions of the Supreme Court in **CHHOTU RAM v. URVASHI GULATI¹, R.S.SEHRAWAT v.**

¹ (2001) 7 SCC 530

RAJEEV MALHOTRA², and also **BIHAR FINANCE SERVICE HOUSE CONSTRUCTION COOP.SOCIETY LTD., v. GAUTAM GOSWAMI³**, to buttress his plea that the Court in exercise of the powers under the Contempt of Courts Act cannot go beyond the orders which are alleged to have been violated and no fresh issues can be considered in the Contempt Case as it would amount to exercising the review jurisdiction, cannot be of any assistance to the appellant herein. For, the said decisions do not take into account Rule 27 of the Contempt of Court Rules, which are specific to the State of Andhra Pradesh (Now Telangana).

9) It is stated and borne by record that during the pendency of the above proceedings, the appellant herein has entered into an agreement of sale with said Sailaja Reddy and he filed a suit for specific performance of the contract. The said suit was numbered as O.S.No.281 of 2016 on the file of the IV-Senior Civil Judge, City Civil Court, Hyderabad. Subsequently, the parties compromised the matter and the said suit was decreed in terms of the compromise entered between the parties before the Lok Adalat. It is trite to submit that any person stepping into the shoes of his vendor can not have a better title than that of his vendor. When the vendor has lost the title to the property, in all the fora, the person claiming through the said vendor, cannot be in a better position. The Deputy Registrar of Cooperative Societies in A.R.C.No.85 of 1993 has clearly held that the membership of the said Sailaja Reddy in the Jubilee Hills Cooperative Housing Society Limited was obtained by fraud. Hence, the allotment of the plot in

² (2018) 10 SCC 574

³ (2008) 5 SCC 339

her favour was also set aside. These findings have become final. For, the same has been confirmed by the High Court in the above mentioned writ petition and writ appeals. Therefore, the appellant, who is claiming through the said Sailaja Reddy, cannot have any title over the subject plot.

10) A bare perusal of the Rules of High Court of Andhra Pradesh, especially, Rule 27 thereof reads thus:

The Court may pass such orders as the Justice of the case requires.

11) In **Sita Ram V. Balbir @ Bali**⁴ the Hon'ble Supreme Court while dealing with a case where respondents-contemnor had admitted into the Hospital only with a view to subvert the orders passed by the Hon'ble Supreme Court and other Court and the role of the hospital, and the doctors, has observed as under:

21. The theory that the hospital was trapped by the designs of the respondent is a mere eye-wash and we reject the same. Thus, the inescapable conclusion is that the hospital extended protection and asylum to the respondent to defeat the Order passed by this Court as well as those passed by the Trial Court and thereby obstructed administration of justice.

24. Questions that arise are: (1) whether a person, who is not bound by a direction issued by the Court could be held guilty for committing contempt of court for his conduct in either directly aiding and abetting violation on part of the person who is bound by such direction; and (2) what is the extent of liability of such person.

In those circumstances, the Hon'ble Supreme Court has held as under:

⁴2017 (3) ALT 31 (SC)

25. In our view, the Medical Professionals namely Dr. Munish Prabhakar and Dr. K.S. Sachdev extended medical asylum to the respondent without there being any reason or medical condition justifying prolonged admission of the respondent as an indoor patient as a cover to defeat the Orders passed by this Court and the Trial Court, as stated above and thereby aided and assisted the respondent in violating the Order of this Court. By such conduct these Medical Professionals have obstructed administration of justice.

26. We thus hold that the respondent guilty of having violated the Order dated 24.10.2013 passed by this Court and for having obstructed administration of justice. We also hold Dr. Munish Prabhakar and Dr. K.S. Sachdev guilty for having helped the respondent in his attempts and thereby obstructing administration of justice.

12) In **Kanadena Veeraiah v. Narra Venkateswarlu**⁵, this Court at paras 12 and 13 observed as under:

“From the foregoing discussion it emerges that the High Court, as a Court of Record, has undoubtedly inherent power as enshrined in Article 215 of the Constitution of India to punish for its contempt and to have all the powers of such a Court of record to pass orders in exercise of its inherent power to help the administration of justice, and Rule 27 of the Contempt of Court Rules framed by this Court by virtue of the powers conferred under Section 23 read with Article 215 of the Constitution only reiterates what is enshrined in Article 215 and is in conformity with the ratio laid down by the Courts in the above mentioned cases.

13) Merely because third parties have intervened, that by itself cannot be circumstances that can come in the way of exercise of inherent jurisdiction of the High Court and pass just and necessary orders while disposing of a contempt application. If in a given case the Court comes to the conclusion that change in the circumstances is such that no relief can be granted while exercising its inherent jurisdiction, then the Court may refrain from passing any order and simply dispose of the contempt application. But, on the other hand, if the Court, after examination of the facts and circumstances, finds that interests of justice warrant to give relief and if it is

⁵1985(2) APLJ (HC) 193

possible to give such relief, nothing prevents the Court from passing appropriating orders given such relief.

13) This Court has ample power to see that the orders passed by the Court are implemented in its true letter and spirit and to do justice to the parties. No person or authority can cause any obstruction or an impediment be allowed which will result in tampering with the administration of justice. Therefore, the *suo motu* impleadment, and the further direction to the appellant herein to vacate the premises within a particular time period and on failure to do so, directing the police authorities to evict him, is perfectly justified and there are no grounds to interfere with the same.

14) For the above mentioned reasons and in view of the ratio laid down in **K.Veeraiah** (supra), we see no merit in the Contempt Appeal; accordingly, the same is dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

13th November, 2019
smr