

HONOURABLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.21976 OF 2013

ORDER (ORAL) :

The prayer in the writ petition is as under:

“...it is prayed that this Honourable High Court may be pleased to issue a Writ Order or Direction more particularly one in the nature WIRT of MANDAMUS declaring the action of the 2nd respondent in not return the unmarked documents as per the directions of the MSJ in CC.No.16/2005 dated 13-6-2008 as illegal, arbitrary and consequently direct the 2nd respondent to return the documents i.e. (1) Land document written in Telugu stands in the name of the father of the petitioner by name Jagatha Satyanarayana consisting of 199.61 Sq.Meters situated at Tadepalli Gudem Vide doc.No.3434 and (2) Land document written In Telugu on the name of the mother of the petitioner by name Jagatha Nagendra consisting of 205.88 Sq. Meters, situated at Tadepalligudem vide Doc.No.3433 to the petitioner ...”

2. There is no representation on behalf of the petitioner.

3. Respondent No.2 - Inspector of Police, White Collar Offences, Team-II, Central Crime Station, Hyderabad, filed a counter affidavit denying the averments in the affidavit filed in support of the writ petition and contended *inter alia* that a case in Crime No.551 of 2003 was registered for the offences punishable under Sections 420

and 406 of Indian Penal Code, 1860 (for short 'IPC'), and Sections 3 and 5 of Andhra Pradesh Protection of Depositors of Financial Establishments Act, 1999 (for short 'Act'), wherein the petitioner herein was shown as accused No.2 since he being the Managing Director of M/s. Lancet Airways Private Limited has invited applications on behalf of the company for the posts of Commander (Senior Pilots) and First Officers (Junior Pilots) and collected huge amounts to a tune of Rs.41,50,000/- from six members and no specific flying training was given to them and did not return the deposited amount. It is stated that during the course of investigation, witnesses were examined and their detailed statements were recorded. The petitioner (accused No.2) was arrested and in pursuance of his confession, movable and immovable properties including the documents have been seized. On the requisition filed by the investigating agency, the Government of Andhra Pradesh (the then unified State) passed orders vide G.O. Ms. No.176 dated 24.07.2004 for attachment of properties which were identified during the course of investigation. Later, accused No.3, Ms. Sirisha, Director of M/s. Lancet Airways, was also arrested. It is further stated that after completion of the investigation, charge sheet was filed before the learned Metropolitan Sessions Judge, Hyderabad, and the same was taken on file as C.C. No.16 of 2005.

4. It is further stated in the counter affidavit that after completion of trial, the learned Metropolitan Sessions Judge, by the

judgment dated 13.06.2008, acquitted accused Nos.1 to 3 for the charges under Sections 420 and 406 of IPC and Section 5 of the Act. Aggrieved by the said judgment, respondent No.2 herein filed an appeal before this Court vide Criminal Appeal No.1766 of 2008. The said appeal was admitted and the same is pending adjudication. It is also stated that the learned Metropolitan Sessions Judge transmitted the entire records including the marked and unmarked documents relating to C.C. No.16 of 2005 to this Court in connection with the above referred criminal appeal and, thus, the documents sought to be returned to the petitioner are lying with the records in this Court, and, therefore, respondent No.2 was unable to return the same to the petitioner.

5. Though a detailed counter affidavit is filed by respondent No.2, the petitioner failed to file any reply affidavit to rebut the averments made in that counter affidavit. Thus, the contents of the counter affidavit of respondent No.2 remain un-rebutted.

6. In the circumstances, this Court is of the opinion that there are no merits to entertain this writ petition and the same is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. It is needless to mention that the petitioner is at liberty to seek return of documents by filing an appropriate application in Criminal Appeal No.1766 of 2009 as per law. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition stand closed.

P. KESHAVA RAO, J

December 3, 2019.
PV

