

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.29952 of 2014

ORDER:

This writ petition is filed seeking a direction to the respondents 4 to 7 to provide protection to the property of the petitioner at premises bearing MCH No.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards situated at Venkatagiri, Yousufguda, Hyderabad, which is under attachment by the Central Crime Station, Hyderabad.

2. Heard learned counsel for the petitioner, and the learned Assistant Government Pleader for Home.

3. Brief facts, as per the averments in the writ affidavit, are as follows:

The petitioner asserts that he is the owner of the property bearing No.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards. It is the assertion of the petitioner that originally one B. Balaiah was the owner of the property bearing No.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards, and he sold the property in favour of one Ch. Hanumantha Reddy and two others under a registered sale deed bearing Document No.2541/1990 dated 19.10.1990, and the said Ch. Hanumantha Reddy sold the property in favour of one Mrs. K. Nirmala Gupta vide a registered sale deed Document No.203/1996 dated 05.07.1996, and the said K. Nirmala Gupta (represented by her GPA Holder i.e., A.S. Leasing & Finance Limited (ASLFL)) had sold the property to the petitioner herein vide registered Sale Deed Document No.4516 and 4517/2003, dated 22.12.2003.

While matter stood thus, one Dr. Kamal Kumar Kalsker and his wife filed O.P.No.1204 of 1997, and O.P.No.1205 of 1997 before the District Consumer

Forum, Hyderabad, for recovery of money against K. Jagan Mohan Gupta and his wife Smt. Nirmala Gupta, wherein an execution petition was filed in E.P.No.70 of 1998 and E.P.No.71 of 1998, and the property bearing No.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards was attached.

Though Nirmala Gupta never objected to attachment of subject properties as she had no title or interest in the properties, however, the petitioner being the owner of subject properties, filed claim petitions vide E.A.Nos.323 and 325 of 1990 in the E.P.Nos.70 and 71 of 1998, respectively, and the claim petitions were allowed, thereby, the attachments were raised. However, Kamal Kumar Kalasker filed revision petitions before this Court in CRP Nos.1755 of 2000 and 5608 of 1999, however, the said revision petitions were dismissed by this Court by a common order dated 09.03.2004.

A criminal case was filed against Smt. Nirmala Gupta and her husband K. Jagan Mohan Gupta in Crime No.8/2000/CCS under the A.P. Protection of Depositors of Financial Establishment Act, 1999, in which the property of the petitioner, which is in possession of ASLFL, was attached on 02.07.2003. Subsequently, charge sheet was filed which was taken on file as C.C.No.2/2000 on the file of Metropolitan Sessions Judge, Hyderabad, and the said attachment was made absolute by the Metropolitan Sessions Judge, Hyderabad on 21.11.2003.

Subsequently, C.C.No.2/2000 was disposed of on 19.02.2008 acquitting Smt. Nirmala Gupta and the attachment order made by the Metropolitan Sessions Judge on 21.11.2003 stood vacated. Though the State filed a Criminal Appeal bearing No.1550 of 2009, no interim orders as such have been made with respect to the property and, as on date, there is no dispute with respect to the title acquired by the petitioner through registered sale deeds bearing Nos.4516 and 4517 of 2003, dated 22.12.2003, with respect to properties bearing MCH No.8-3-

230/B/45 and 8-3-230/B/46 admeasuring 600 square yards situated at Venkatagiri, Yousufguda, Hyderabad.

That being so, it is the grievance of the petitioner that the State has erected a board on the property stating that the property is under the control of Central Government, and hence he filed the present writ petition.

4. Counter affidavit is filed by the Inspector of Police, Detective Department, Central Crime Station, Hyderabad City. It is stated in the counter affidavit that one K. Jagan Mohan Gupta (A1), K. Anantha Ramu (A2), K. Nirmala (A3), K. Vijay Krishna (A4), K. Vijay Kumar (A5), Shivalingaiah (A6), K. Rama Lingaiah (A7), Sridevi (A8), K. Vinodha (A9), A. Narsimha Reddy (A10) are the directors of the Company by name Asmitha Finance & Leasing Ltd., situated at Flat No.1B, Shiva Apartments, Somajiguda, Hyderabad in the year 1994-95, and the same was registered with the ROC, AP, Hyderabad. Thereafter, the accused floated other unregistered companies viz., Asmitha Finance & Investments, Asmitha Power Systems Pvt. Ltd., Asmitha Meridian Estates Pvt. Ltd., Asmitha Housing Development Corporation Pvt. Ltd., Asmitha Cements Ltd., Asmitha Hotels & Resorts Pvt. Ltd., Asmitha Communications Ltd., Asmitha Hi-Tech Bus Services, Asmitha Car Finance, Nagarjuna Fiancne and NESCON group construction, Finance service and Industrial Services. The accused A10 and his wife introduced all other accused to the complainant stating that, the said accused persons are well off and economically sound having all the above businesses. The accused persons promised to pay higher rates and huge amounts of interest on the Fixed Deposits, believing the version of the accused A10, being a close relative of the complainant, he deposited an amount of Rs.1.00 lakh each on 30-04-1996, 06-07-1996 and 15-09-1996; Rs.3.00 lakhs on 23.09.1996 (total Rs.6.00 lakhs), and the above amounts are given to A1 in the presence of A10 as FD in Asmitha Hi-Tech bus services for which the accused

A1 issued 4 cheques for the deposited amounts, which are written by A10 and signed by A1. The accused also paid interest on the said amount till May 1997. Thereafter, the accused stopped paying interest. The accused collected deposits to the tune of Rs.25.00 lakhs from several other persons i.e., (1) Rs.2.50 lakhs from Venkata Ratnam; (2) Rs.3.75 lakhs from M. Rama Reddy; (3) Rs.2.00 lakhs from T.R. Tandon; (4) Rs.10,000/- from M.V. Madhusudhan Reddy and others. Basing on the above complaint, a case was registered vide Crime No.8/2000, for the offences punishable under Sections 420, 468, 471 and 406 IPC, and Sections 3 and 5 of A.P.P.D.F.E. Act of CCS, Hyderabad, and entrusted the investigation to the Inspector of Police, WCO Team-I, CCS, Hyderabad. After completion of investigation, charge sheet was filed before the Court of Metropolitan Sessions Judge, Hyderabad, which was taken on file as C.C.No.2/2000, and the case ended in acquittal by order dated 19.02.2008 and the said orders have become final. Against the acquittal of the accused, an appeal was preferred by the State in Criminal Appeal No.1550 of 2009 before the High Court, and the same is pending. It is also stated that one P. Ramesh Goud has been interfering with the possession of subject property claiming himself to be in possession and also erected a board in his name and requested the police to take action. Thus, it is evident that there is a civil dispute with regard to boundaries of the property. It is also asserted that the writ petition is liable to be dismissed for non-joinder of proper parties.

5. It is brought to the notice of this Court that there is a writ petition i.e., W.P.No.33470 of 2014 filed by one P. Ramesh Goud, S/o (late) Hanumaiah, and one Mohan Reddy s/o (late) Rami Reddy, alleging interference of respondents by preventing, threatening and interfering with the petitioners rights and possession in property bearing H.No.8-3-230/B/47 in Plot No.47, Shaikpet village, Venkatagiri, Yousufguda, Hyderabad.

6. Having considered the respective submissions, this is a case where admittedly there is no attachment order, as on date, with respect to the property bearing No.8-3-230/B/45 and 8-3-230/B/46 as the attachment made earlier by the Metropolitan Sessions Judge, Hyderabad, in C.C.No.2/2000 stood vacated on account of the dismissal of the criminal case. Though an appeal is pending before this Court in Criminal Appeal No.1550 of 2009, against the dismissal order passed by the Metropolitan Sessions Judge, Hyderabad, there is no interim order in the appeal attaching the said property. The State by itself has no claim over the property, and the Central Government is not a party to the writ petition.

7. Though the learned Assistant Government Pleader had brought to the notice of the Court about a connected matter viz., W.P.No.33470 of 2014, the affidavit filed in support of the said writ petition discloses that the claim is with respect to premises bearing No.8-3-230/B/47 in Plot No.47, admeasuring 417 square yards. In the present writ petition, the claim of the petitioner is with respect to premises bearing Nos.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards. Prima facie both the properties are different. It may also be noted that W.P.No.33470 of 2014 came to be dismissed for non-prosecution on 06.01.2020. It may also be noted that in the said writ petition, the petitioner herein has been arrayed as respondent No.4.

8. Yet another aspect which is to be noted is that K. Nirmala Gupta w/o K. Jagan Mohan Gupta, had filed O.S.No.788 of 2008 on the file of IV Senior Civil Judge, City Civil Court, Hyderabad, seeking cancellation of registered Sale Deed bearing Nos.4516 and 4517 dated 22.12.2003, and the said suit came to be dismissed by the Judgment and Decree dated 28.08.2015, and the said judgment and decree had become final in view of there being no material with respect to any appeal pending against the dismissal of suit; and the assertion of the

petitioner that the judgment and decree dated 28.08.2015 had become final confirms the title in favour of the petitioner.

9. In those circumstances, there being no assertion on the part of the respondents that they are interfering or that they are in possession of the property bearing MCH No.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards situated at Venkatagiri, Yousufguda, Hyderabad, the symbolic possession which the respondents claim to have obtained on account of the earlier attachment orders passed by the learned Metropolitan Sessions Judge, stood automatically ceased on account of dismissal of C.C.No.2/2000.

10. In those circumstances, it would be open to the petitioner to protect his possession of the property bearing MCH No.8-3-230/B/45 and 8-3-230/B/46 admeasuring 600 square yards situated at Venkatagiri, Yousufguda, Hyderabad, and in the event of there being any interference from any quarters, the petitioner can seek appropriate civil remedies available in law.

11. Subject to the above observation, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

27th January, 2020

KSM

CHALLA KODANDA RAM, J

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM



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