

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL REVISION PETITION Nos.3100 & 3111 of 2019

COMMON ORDER:

As both the Civil Revision Petitions arise out of a common order, they are being disposed of by this common order.

2. The brief facts of the case are that the petitioner company filed O.S.Nos.81 of 2016 against respondent Nos.1 and 2 herein on the file of the Court of V Additional District & Sessions Judge, Medak at Sangareddy (for short, Court below) seeking to declare certain sale deeds, relating to suit schedule property, as benami; direct respondent Nos.1 and 2 to transfer the suit schedule property in the name of the petitioner company; and to grant permanent injunction restraining respondent Nos.1 and 2 and their men from interfering with the suit schedule property. In the said suit, the petitioner company filed I.A.Nos.377 of 2019 to direct respondent No.3 to furnish certified copies of income tax returns of respondent No.2 for the period from 2006 to 2011 and I.A.No.376 of 2019 to direct respondent No.3 to furnish certified copy of statement of account of respondent No.2 being maintained with the State Bank of India for the period from 01.04.2011 to 31.03.2015.

3. The Court below, by relying on a division Bench of High Court of Kerala at Ernakulam in case of **Raju Sebastian and Others Vs. Union of India and Others** in W.A.No.2112 of 2018, dated 04.09.2019, dismissed the said IAs by common order dated 19.09.2019, stating that the petitioner company is not entitled to

seek production of documents pertaining to respondent No.2. Challenging the same, the petitioner company filed these Civil Revision Petitions.

4. Sri Raghavan, counsel representing Sri V.S.R. Raavinutala, learned counsel for the petitioner company, submits that previously respondent No.2 worked as Additional Director of the petitioner company; that the petitioner company purchased the suit lands in the name of respondent No.1 with an understanding to transfer the suit lands in its favour after obtaining permissions for land conversion and layout; that thereafter, for the commissions and omissions done by respondent No.2 as additional Director, the petitioner company removed him; and that when respondent Nos.1 and 2 did not transfer the suit lands in favour of the petitioner company, it filed the above suit. He further submits that the petitioner company filed above IAs to prove that respondent No.2, who is the husband of respondent No.1, had no income to purchase the suit lands, and that he purchased the suit lands from the funds of the petitioner company, but the Court below erroneously dismissed the same. He further submits that if the income tax returns and bank statements of respondent No.2 are produced before the Court below, the same would help the Court below in deciding the issue involved in the suit. On the above submissions, the learned counsel prays to set aside the orders of the Court below. In support of his argument, he relied on a

decision of this Court in **Pentakota Surya Appa Rao Vs. Pentakota Seethayamma**¹

5. Sri Ch.Shashibhushan, learned counsel for respondent Nos.1 and 2, submits that there is no specific pleading in the plaint about the documents which are sought to be produced before the Court below and hence, the petitioner company cannot seek to produce the same later. He further submits that any information which discloses remittances made to the Income Tax Department towards discharge of tax liability would constitute personal information and that a demand for furnishing income tax returns would constitute invasion of the privacy of a person and hence, the Court below rightly dismissed the IAs and prays to dismiss the Civil Revision Petitions.

6. As per the evidence of respondent No.2, he worked in BSNL and retired. In the evidence of respondent No.2, though he categorically stated that he had agricultural income to a tune of Rs.25 lakhs per annum, the same was not disclosed in his income tax returns. In this regard, the learned counsel for respondent Nos.1 and 2 submitted that since the agricultural income is exempted from the tax, respondent No.2 did not mention the same in his tax returns. It is to be noted that though agricultural income is exempted from tax, nowhere it has been mentioned in the Income Tax Act and the Rules framed thereunder that agricultural income need not be disclosed in the tax returns. An assessee has

¹ 1976 (103) ITR 222

to disclose his agricultural income in the returns and seek exemption of the same from tax as per the provision of the Income Tax Act and the Rules.

7. The case of the petitioner company is that it has purchased the suit lands in the name of respondent No.1, and to prove the same, it sought a direction to respondent No.3 to produce the income tax returns and bank statement of respondent No.2. Since the examination of the said documents would go to the roots of the case, the Court below ought to have allowed the said IAs and directed respondent No.3 to produce the said documents. Apart from the same, if the said documents are produced before the Court below, no prejudice would be caused to respondent Nos.1 and 2.

8. The judgment relied on by the Court below in **Raju Sebastian**'s case (supra) cannot be made applicable to the facts of the present case under the pretext of infringement of privacy affecting Article 21 of the Constitution of India, as the issue involved in the present case is whether respondent No.2 had the financial capacity to purchase the suit property. Therefore, to decide the said issue, it is essential to produce income tax returns and bank statement of account of respondent No.2 before the Court below. If the same are produced before the Court below, the same does not result in violation of Article 21 of the Constitution of India, as they are Government documents and are accessible to others.

9. In **Pentakota Surya Appa Rao's** case (supra), a division Bench of this Court held that income tax returns are public documents and they can be summoned by the Court. In view of the above, the order of the Court below cannot be sustainable and is liable to be set aside.

10. It is brought to the notice of this Court that in earlier round of litigation, this Court disposed of CRP.Nos.1734, 1756 and 1783 of 2017 with a direction to the Court below to decide of the suits within a time frame.

11. For the reasons stated above, these Civil Revision Petitions are allowed; common order dated 19.09.2019 in I.A.Nos.377 and 376 of 2019 in O.S.No.81 of 2016 of the V Additional District & Sessions Judge, Medak at Sangareddy is set aside; and I.A.Nos.377 and 376 of 2019 are allowed. The Court below is directed to dispose of the suit as expeditiously as possible and the parties are directed to cooperate for the same. No costs. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 14.02.2020
TJMR