

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND TWENTY ONE

PRESENT

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION NO. 4362 OF 2021

Between:

Mohammed Omer, S/o. late Mohammed Azeemuddin, Aged about 40 years, Occ.
Business, R/o H.No.1-4-453/2, Birban Street, Bholakpur, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Stamps and Registration
Department Government of Telangana, Secretariat, Hyderabad.
2. The District Registrar, Hyderabad District, Hyderabad.
3. The Sub-Registrar, SRO, Chikkadpally, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the affidavit filed therewith, the High Court may be pleased
to issue a Writ, order or direction, especially one in the nature of Writ of Mandamus
declaring the action of Respondent No.3 in refusing to register sale deed on the
ground that stamp duty already paid on 06/01/2020 is lapsed without assigning any
valid reason as illegal, arbitrary and unjust and violation of Article 14, 21 and 300-A
of the Constitution of India, consequently direct the respondents to register the Sale
Deed by accepting the Stamp duty already paid on 06/01/2020.

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in
the affidavit filed in support of the petition, the High Court may be pleased to direct
the Respondent No.3 to receive and register the Sale Deed by accepting the stamp
duty already paid 06/01/2020 pertaining to Residential property comprising GHMC
H.No.1-1-475/1, consisting of plinth area of 909 Sq.Feet with ACC Roof and land
admeasuring 101 Sq.Yards, situated at Gandhi Nagar, New Bakaram, Hyderabad,
pending further orders in the writ petition.

Counsel for the Petitioner: SRI E. V. V. S. RAVI KUMAR

Counsel for the Respondents: GP FOR STAMPS AND REGISTRATION

The Court made the following: ORDER

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.4362 of 2021

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader appearing for the respondents.

2. Petitioner claims that the original owner of residential property bearing GHMC H.No.1-1-457/1, with a plinth area of 909 Sq. feet admeasuring 101 Sq.yards, situated at Gandhi Nagar, New Bakaram, Hyderabad was Mrs Amboo Bai Dave. During her life time she executed a Gift Deed vide document No.1220 of 1999 in favour of her son Sri Vinayak Bhagvan Dave. After the death of Sri Vinayak Bhagvan Dave, his wife succeeded to the above property. On 08.01.2020 the vendor of petitioner executed a Power of Attorney for sale of above property and petitioner paid an amount of Rs.1,86,000/- towards stamp duty and registration charges on 06.01.2020. Due to Covid-19 Pandemic, imposing of lock down and continuous spread of virus, petitioner could not venture to take further steps for registration of the document. As virus impact has drastically come down, petitioner presented the document for registration on 12.01.2021. The Sub-Registrar, Chikkadpally, Hyderabad-3rd respondent refused to receive the document holding that the stamp duty and registration charges paid by the petitioner on 06.01.2020 is no more valid and he has to pay the entire amount. Aggrieved by the decision of 3rd respondent refusing to receive the deed of conveyance presented for registration and insisting to pay fresh stamp duty and registration charges, this writ petition is filed.

3. Ex.P.1 is the Challan paid by the petitioner before the State Bank of India, evidencing payment of amount of Rs.1,86,000/- and at Page No.16 is the registration e-Challan Slip. By acknowledgement receipt dated 12.01.2021 filed at Page No.17 of the writ petition paper book, the State Bank of India endorsed payment of amount on 06.01.2020. Thus, it is not in dispute that petitioner has paid the entire transaction amount required to process the deed of conveyance.

4. According to learned Assistant Government Pleader for Revenue, the stamp duty and registration charges once paid is valid for a period of six months and within a period of six months, person can seek to present the document for registration. In the instant case, six months period was over by July, 2020. Therefore, after July, 2020 the stamp duty and registration charges are not valid and petitioner has to pay the amount again. However, Government enabled the party to seek refund of the amount already paid, but that has to be by way of independent proceedings. In other words, according to learned Assistant Government Pleader, unless stamp duty and registration charges are paid again, the deed of conveyance cannot be processed.

5. On account of the outbreak of Covid virus an extraordinary situation has arisen in the entire world. The entire country had to be in a lock down situation for a very long time and even after relaxation of the lock down conditions gradually, it took very very long time to restore normalcy. Even now people are not venturing to move out freely as virus is still prevailing and consequences of the virus infection are more grave. Only now, the Government is administering vaccine in a phased manner. Thus, till January,

2021, if petitioner has not ventured to go before the registering authority to present the document for registration, he cannot be faulted. Registration of document cannot give priority having regard to the concerns of health. Thus, in the extraordinary circumstances, the action of the 3rd respondent in refusing to accept the plea of petitioner to adjust the stamp duty and registration charges already paid on 06.01.2020 to process the deed of conveyance cannot be appreciated. Having paid the stamp duty and registration charges, merely because the deed of conveyance was not presented within six months from payment of stamp duty and registration charges, penalized by directing him to pay entire amount again without adjusting the amount already lying in their account and asking him to apply for refund of the amount separately.

6. Having regard to the peculiar facts of this case and having regard to the Pandemic that prevails even now, the Sub-Registrar-3rd respondent is directed to receive the deed of conveyance to be presented by the petitioner along with challan dated 06.01.2020, process the document for registration, if the same is otherwise in order without insisting for payment of stamp duty and registration charges again. The entire exercise shall be completed within a period of four weeks from the date of receipt of copy of this order.

7. With the above directions, the Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

//TRUE COPY//

SD/-K.VENKAIAH
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Sub-Registrar, SRO, Chikkadpally, Hyderabad.
2. One CC to Sri E. V. V. S. Ravi Kumar, Advocate [OPUC]
3. Two CCs to GP for Stamps and Registration, High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CD Copies.

MP



HIGH COURT

DATED:03/03/2021



ORDER

WP.No.4362 of 2021

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

⑥ VW
12/3/21