

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTY NINTH DAY OF APRIL TWO THOUSAND AND TWENTY TWO

**:PRESENT:
THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY**

WRIT PETITION NO: 22151 OF 2022

Between:

Mr. Syed Mahaboob Jani, S/o. Late Baba Tajuddin Avuliya.

Petitioner

AND

1. The State of Telangana, Rep. by its Principal Secretary Registration and Stamps Department, Secretariat, B.R.K. Buildings, Saifabad, Hyderabad.
2. The Commissioner of Stamps and Regn., Mozamzahi Market, Hyderabad - 500 001, T.S.
3. The Sub- Registrar, Golconda Sub-Registrar Office. Pillar No. 89, Attapur Road, Hyderabad, T.S.
4. The Branch Manager, Shriram Chits (P) Ltd., Himayat Nagar Branch, Hyderabad-500 029. T.S.

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 Writ or Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No. 3 herein in refusing to receive the application for registering the redemption of the mortgaged property with the Respondent No.4 without applying Enemy Property Act which is not applicable to this transaction since the Petitioner is not transferring the property to any third party except the filing of the document for redemption of Mortgage already made vide document bearing No. 2522 of 2019 duly registered with Respondent No.3 of the property document bearing No. 2125 of 2006 dated 20.4.2006 of Residential Flat No. 503, House No. 10-2-509 and 10-2-509/1, situated in Royal Castle Apartment, Asif Nagar Road, Hyderabad. T.S. consequently direct the Respondent No.3 to release mortgage of the said property from the Mortgage since the Petitioner has already paid the amount through Bank Challan which will become invalid.

IA NO: 1 OF 2022

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 and 4 to receive, register and release the redemption deed presented by the Petitioner in respect of his property Residential Flat No. 503, House No. 10-2-509 and 10-2-509/1, situated in Royal Castle Apartment, Asif Nagar Road, Hyderabad, T.S., Pending disposal of WP 22151 of 2022, on the file of the High Court.

Hyderabad, T.S., Pending disposal of WP 22151 of 2022, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI M A KHADER, Advocate for the Petitioner, GP FOR STAMPS AND REGISTRATION for the Respondent Nos.1 to 3, the Court made the following.

ORDER:

This writ petition is filed by the action of respondent No.3 in refusing to register the document titled as "Release of Memorandum of Deposit of Title Deeds".

It is not in dispute that the petitioner executed Memorandum of Deposit of Title Deeds dated 17.04.2019 vide document No.2522/2019 by mortgaging the subject property in favour of M/s. Shriram Chits Private Limited for providing security to the bid amount received by the petitioner under a chit floated by M/s. Shriram Chits Private Limited. The petitioner has paid the entire chit amount and presented document for release of Memorandum of Deposit of Title Deeds. However, it is the case of the petitioner that respondent No.3 refused to register the document on the ground that the property covered under the document is vested with the Custodian of Enemy Property, Government of India.

Learned Government Pleader submits that he has not received any instructions.

The objection which was not taken by the Sub-Registrar at the time of registering the mortgage deed cannot be permitted to be taken now, more so for release of mortgage.

Learned Government Pleader submits that subsequently the subject property was notified as evacuee property. Be that as it may, registration of the subject document does not confer any new rights in favour of the petitioner or a third party. By registering the mortgage deed, there is no transfer of title as such. Moreover the document now presented for registration is only a release of mortgage and the title over the property is immaterial for the 3rd respondent. The release of mortgage deed cannot be treated as alienation so as to invoke provision under Section 22-A of the Registration Act, which prohibits alienation of Government lands. In the instant case, there is no alienation as such.

Hence, there shall be interim direction to respondent No.3 to release the document styled as "Release of Memorandum of Deposit of Title Deeds" in respect of residential Flat No.503, H.No.10-2-509 & 10-2-509/1, situated in Royal

Castle Apartment, Asif Nagar Road, Hyderabad, however the same shall be subject to further orders of this Court.

Post on 24.06.2022.

//TRUE COPY//

SD/- T.KRISHNA KUMAR
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Principal Secretary Registration and Stamps Department, State of Telangana, Secretariat, B.R.K. Buildings, Saifabad, Hyderabad.
2. The Commissioner of Stamps and Regn., Mozamzahi Market, Hyderabad - 500 001, T.S.
3. The Sub- Registrar, Golconda Sub-Registrar Office. Pillar No. 89, Attapur Road, Hyderabad, T.S.
4. The Branch Manager, Shriram Chits (P) Ltd., Himayat Nagar Branch, Hyderabad-500 029, T.S. (1 to 4 by RPAD)
5. One CC to SRI M A KHADER Advocate [OPUC]
6. Two CCs to GP FOR Revenue, High Court at Hyderabad. [OUT]
7. One spare copy

mvj

HIGH COURT

BVR,J

DATED:29/04/2022

Post on 24.06.2022

ORDER

WP.No.22151 of 2022

DIRECTION

