

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

I.A.No.2 of 2022 in W.P.No.10481 of 2021,
I.A.No.1 of 2021 in C.R.P.No.71 of 2017,
W.P.No.24942 of 2013 and W.P.No.25571 of 2012

COMMON ORDER:

It is represented by Sri N.Ashok Kumar, learned counsel for the petitioner in W.P.No.10481 of 2021 and W.P.No.25571 of 2012; Sri Venkat Raghu Ramulu in W.P.No.24942 of 2013 and Sri M.Achutha Reddy, learned counsel for the petitioners in C.R.P.No.71 of 2017 that the subject matter of aforesaid cases is one and the same and the dispute is relating to the constitution of Trust and allotment of properties of Kasturibai Smarak Trust, which is a Registered Trust and all the parties having stake in the trust as well as the property owned by the Trust, have arrived at a compromise and accordingly, entered into a Memorandum of compromise, dated 24.12.2021 and the terms of the compromise stated to have been arrived at between the parties are as under:

“ 1. It is agreed by both the parties that Late Mithanlal Gupta along with other four members were the founder trustees of the Trust named as “Kasturibai Smarak Trust” reg.No.16/1977. Other four were the co-founder trustees and they were Sri Gopikishan Rathi, Sri Anant Gore Ji, Sri Venkat Rao Namaji and Dr.Kuma Swamy. MR.Mithanlal Gupta has been elected as President/Chairman of the Trust in its first meeting.

2. It is agreed by both the parties that within short period of 5 months Dr.Kumar Swami resigned from the Secretary Post of Trust due to his personal reasons and after acceptance of resignation of Dr.Kumar Swamy, Sri Vithal Rao Arya has been inducted as Trustee and has been appointed as Secretary of the Trust by passing a unanimous resolution by all Trustees.

3. It is agreed by the both the parties that the Trust No.16/1977 has purchased a piece of land near Appanpally Village in 1984 bearing Sy.No.301/1 (old) (new No. is 301/aa) admeasuring Ac.4-11 Gts. at Yadira Revenue Village (V), Mahabubnagar (U) Mandal & District on 12.04.1984 and got it registered on name of Trust i.e., KASTURI BAI SMARAK TRUST (No.16/1977) 1984 vide Registered Sale Deeds bearing Nos.1000, 1001, 1002, 1003, 1004. The above land is purchased when Late Sri Mithanlal Gupta was President of the Trust and Sri Vithal Rao Arya was Secretary.

4. It is agreed by the both the parties that Dr.V.Muralidhar Rao has been adopted as trustee of the Trust after death of Sri Gopikishan Rathi in 1983 who was one of the trustee, and after death of President of the Trust Sri Mithanlal Gupta, his brother Mr.Gyanchand Gupta has been adapted as trustee and made President and Dr.Muralidhar Rao as Vice President of the Trust unanimously. Again in 1999 after demise of Sri Gyanchand Gupta, Dr.V.Muralidhar Rao has been elected as President of the Trust i.e., "Kastruri Bai Smarak Trust" having Reg.No.16/1977 and his name was recorded in revenue records.

5. It is agreed by both the parties that since 1999 Dr.V.Muralidhar Rao is working as President of Kasturi BAI Smarak Trust (bearing Reg.No.16/1977) and Sri Vithal Rao Arya as Secretary of Trust. It is also agreed by both parties that the family members of Late Mithanlal Gupta, are 1) Smt. Bhagavati Devi, 2) Rajanikanth Gupta and 3) Sri Vishnukukar Gupta 4) Sneha Gupta and are family legal heirs of party of Second Party.

6. It is agreed by both the parties that the facts stood thus; because of misunderstanding the Second Party has created a new Trust on the very same name and style as Kasturi Bai Smarak Trust on 03.04.2008. The said document was got registered as Doc.No.38/2008 (2nd Trust) in the office of the Sub-Registrar, Mahabubnagar and entries made basing on trust deed in the revenue records which is illegal & void document. Entries made basing on 2nd trust in Revenue records which were later set aside by ROD vide proc.No.B/4071/2011 Dt.12-9-2011. Later in appeal case Joint Collector, Mahabubnagar, has also confirmed the order passed by RDO of cancelling PPB 38548/2008 issued in favour of second party and setting aside the Proc.ROR/C/147/2008, Dt.30.06.2008.

7. It is agreed by both the parties that Agreement of Sale-General Power of attorney Deed dated 30th June 2009 vide reg.document No.3599/2009 created by all the trustees of Trust No.38 of 2008 in favour of 1) Smt. Sneha Gupta D/o Rajendra Kumar W/o Rahul R.Shan for Ac.4-00 out of total Ac 4-11 gts and Agreement of Sale-General power of attorney Deed transaction dated 30th June 2009 vide reg.document No.3600/2009 by all the trustees of Trust No.38 of 2008 in

favour of Sri M.A.Samad S/o M.A. Qayyum R/o Mahabubnagar for Ac.0-11 Gts. are nominal, sham, bogus and without consideration and without delivery of possession.

8. It is agreed by both the parties that the Second party has created a bogus and Sham Sale transaction vide Regd.Doc.No.4153/2001 without consideration over the property of First party which is totally illegal and void and has no right do so such illegal transactions. It is a fact that the First Party Trust has purchased the property admeasuring Ac.4-11 Gts. in land Sy.No.301/1 (old) (new No. is 301/aa) of Yadira (V), Mahabubnagar (u) Mandal. The trust which has got registered in the year 2008 (2nd Trust) is void Document and is declared as bogus and deemed to be cancelled has no right, whatsoever, over the property of First party Trust.

9. It is agreed by both the Parties that it is also a fact that on 22.06.2013, the Joint Collector, Mahabunagar while disposing Case No.D1/56/2011, File No.D1/2431/2011 confirmed the cancellation of the order of the Tahsildar passed in File Proc.No.ROR/C/147/2008 Dt.30.06.2008 and order of RDO, Mahabubnagar vide Proc.No.B/4071/2011, Dt:12.09.2011. The Tahsildar, Mahabubnagar is directed to restore the entries in the name of Kasturi Bai Smarak Trust (Founder Late Mithanlal Gupta with Regd.No.16/1977) against the suit land in the ROR and subsequent year of pahanies if any and report compliance. The Second Party unconditionally accept the right and title of trust Reg.No.16/1977 over the extent of Ac.4-11 Gts in

Sy.No.301/1 (old) (new No.is 301/aa) of Yadira (V), Mahabubnagar (U) Mandal Dist. Mahabubnagar.

10. It is agreed by both the Parties that aggrieved by the order of Joint Collector the Second Party filed a suit in OS No.62/2013 on the file of Judge, Family Court-cum-Addl.Dist.Judge for declaration of title and injunction as founder trustees of Kasturi Bai Smarak Trust and sought an injunction against the President Sri V.Murali Rao and Vittal Rao Arya, Secretary in their individual capacity. Suit is contested by President Sri V.Muralidhar Rao and Vittal Rao Arya, Secretary of the Original Trust Reg.No.16/1977 and filed an IA No.236/2014 in OS No.62/2013 seeking to rejection of plaint on the ground that the property is a trust property and civil court has no jurisdiction and plaintiff have to approach the Tribunal constituted under Endowment Act. The learned District Judge accepted contentions of First Party and rejected the plaint U/o 7, Rule-11 of CPC. Against the order of learned Dist.Judge, the un-official respondents in Os i.e, Second Party of this memorandum of compromise herein filed a revision before the Hon'ble High Court vide CRP No.71/2017 which is pending before the Hon'ble Court. Since parties entered the compromise, the CRP No.71/2017 has to be closed as dismissed.

11. It is agreed by both the parties that further, while things stood thus, second party have also got entered their names in the recent Dharani portal as pattedars against the Joint Collector order, i.e., as Kasturi Bai Smarak Trust, represented by Smt Bhagawathi Devi W/o Rajendra Prasad Gupta pattedar an extent of Ac.-4-114 gts, in Sy.No.301/AA of Yadira (V), Mahabubnagar (U) Mandal and later

transferred on the name of as Sri Rajanikanth Gupta S/o Rajendra Prasad Gupta, pattedar an extent of Ac.2-11 gts. in Sy.No.301/AA/1 and Vishnukuma Gupta S/o Rajendra Prasad Gupta as pattedar an extent of Ac.2-00 gts. in Sy.No.301/AA/2 of Yadira (V), Mahabubnagar (U) Mahabubnagar which is absolutely an illegal act and contrary to the law. This fact is accepted by the Second party and their names have to be deleted from Dharani records as pattedar and also agreed by Second party to restore the name of original trust of i.e. "Kasturibai Smarak Trust Reg.No.16/1977 represented by Dr.V.Muralidhar Rao.

12. As per clause 16 of Trust Deed (No.16/1977) says that before taking any major decision about the trust by trustees of the trust, the opinion of family members has to be obtained before taking final decision by trustees. In such situation there was a long pending request from the family members to induct one of the family member ie., the member of second party with consent of other members of the Second party. As requested to include one of the family member as one of trustees so that they can contribute to the activities of the trust, as per its aims and objects shall be considered.

13. It is agreed by both the parties that request of second party for considering one of the family member as one of the trustees of Kasturi Bai Smarak Trust bearing Reg.No.16/1977 shall be taken up. With the mediation of the well wishers of the Trust and it is agreed and assured by the first party that by passing a resolution by Board of Trustees of "Kasturi Bai Smarak Trust" (Reg.No.16/1977) to include one of the family member of the second party with consent of other members of second party into the trust

shall be considered. It is also agreed that no member of the family of the second party will claim any right in the Trust (Reg.No.16/1977) nor claim any right except the member taken as trustee.

14. It is agreed by the Second party members that in terms of this MOC, the Second party herewith withdrawing the CRP No.71 of 2017 and also the second party have no objection to allow WP No.10481 of 2021, WP No.24942 of 2013 and WP No.25571 of 2012 as prayed for, nor second party is claiming any independent title or rights over the property of the trust (No.16/1977) bearing Sy.No.301/1 (old) (new No.is 301/aa) admeasuring Ac.4-11 gts. at Yadira Revenue Village (V), Mahabubnagar (U) Mandal and District as their own by themselves or by their legal heirs and request the Hon'ble High Court to allow all the WPs as claimed and prayed by the First Party petitioners and dispose off all WPs in terms of this MOC.

15. Is agreed by both the parties that the second party and all the trustees of Trust No.385/2008 shall cancel agreement of sale-general power of attorney deed dated 30th June 2009 vide reg.document No.3599/2009 created in favour of s) Smt Sneha Gupta D/o Rajendra Kumar W/o Rahul R.Shan for Ac.4-00 out of total Ac.4-11 gts and shall also cancel agreement of sale-general power of attorney deed transaction dated 30th June 2009 vide reg.document No.3600/2009 in favour of Sri M.A.Samad S/o M.A.Qayyum R/o Mahabubnagar for Ac0-11 gts and also shall cancel the reg.doc.No.4153/2011 as they all are nominal, sham, bogus and without consideration and without delivery of possession and are null and void ab-initio.

16. The second party also assured that they will work efficiently for progress of the Trust after inducting as a trustee. In view of the above assurance, it is agreed by the first party of this MOC that the one of the member of the second party shall be considered for their induction as trustee of the trust i.e., Kasturi Bai Smarak Trust (Reg.No.16/1977).

17. It is also agreed by both the parties that the terms of this Memorandum of Compromise shall be binding upon both the parties, including the confirming parties to this agreement. It is also agreed by both the parties that the terms and conditions of this Memorandum of Compromise is non-reversible.”

2. The respective parties also appeared in-person before this Court and they are identified by their respective counsel. In view of the same, without going further into the merits of the case all these cases are disposed of recording the terms of compromise said to have been arrived at between the parties, as extracted hereinabove.

3. However, it is made clear that the terms of compromise entered into between the parties herein shall not have affecting the rights, if any, accrued in favour of third parties or any claim of third parties over the subject property, which are subject matters of terms of compromise, in any manner, nor the terms of compromise recorded herein can be put or used against

such accrued rights. Equally, it is also made clear that if the Government has got any claim over the subject property that also shall not get effected by virtue of the terms of compromise entered into between the parties herein.

4. With the above observations, I.A.No.2 of 2022 in W.P.No.10481 of 2021, I.A.No.1 of 2021 in C.R.P.No.71 of 2017 are allowed and consequently, W.P.No.10481 of 2021, C.R.P.No.71 of 2017, W.P.No.24942 of 2013 and W.P.No.25571 of 2012 are disposed of in terms of the compromise.

Miscellaneous Petitions, if any, pending in all the cases shall stand closed. There shall be no order as to costs.

MUMMINENI SUDHEER KUMAR, J

Date:30.08.2022

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THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

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