

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

I.A.Nos.1 AND 2 OF 2022

IN/AND

WRIT PETITION NO.36909 OF 2021

Between:

1. M/s. Ramky Integrated Township Limited
(special purpose vehicle), rep. by its Director, Taraka Rajesh
Dasari, S/o D.V. Ramana Rao, aged about 38 years, 9th Floor,
Ramky Grandiose, Ramky Towers, Gachibowli, Hyderabad,
And 2 others **...Petitioners**

AND

1. The Sub-Registrar,
Maheshwaram, Ranga Reddy District, Telangana,
And 4 others **...Respondents**

JUDGMENT PRONOUNCED ON: 30.11.2022

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

MUMMINENI SUDHEER KUMAR, J

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**+I.A.Nos.1 AND 2 OF 2022****IN/AND****WRIT PETITION NO.36909 OF 2021**

%Dated 30.11.2022

- # 1. M/s. Ramky Integrated Township Limited
(special purpose vehicle), rep. by its Director, Taraka Rajesh
Dasari, S/o D.V. Ramana Rao, aged about 38 years, 9th Floor,
Ramky Grandiose, Ramky Towers, Gachibowli, Hyderabad,
And 2 others **...Petitioners**

AND

- \$ 1. The Sub-Registrar,
Maheshwaram, Ranga Reddy District, Telangana,
And 4 others **...Respondents**

! Counsel for Petitioner(s):

1. Mr. D.Prakash Reddy, Senior Counsel appearing for Sri K.Prithvi Reddy, counsel,
2. Mr. K.Ashok Kumar, counsel for petitioners in I.A.No.1 of 2022,
3. Ms. B.Rajeshwari, counsel for petitioners in I.A.No.2 of 2022.

^ Counsel for Respondents:

1. GP for Revenue for respondent Nos.1 to 3,
2. Mr A.Sudarshan Reddy, Senior Counsel appearing for Ms. D.Madhavi, Standing Counsel for respondent No.4,
3. GP for MA & UD

< GIST :

> HEAD NOTE :

? Cases referred:

1. (2013) (2) SCC 398
2. (1969) 1 SCC 110

3. (2012) 6 SCC 430: (2012) 3 SCC (Civ) 735
4. (1995) 1 SCC 421: 1995 SCC (Cri) 239
5. (2011) 6 SCC 145: (2011) 3 SCC (Civ) 241
6. (2011) 7 SCC 639: (2011) 3 SCC (Civ) 875
7. (2011) 3 SCC 287: (2011) 1 SCC (L&S) 498
8. (2008) 12 SCC 481
9. (2021) SCC Online SC 1194
10. (2007) 8 SCC 449

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**I.A.Nos.1 AND 2 OF 2022****IN/AND****WRIT PETITION No. 36909 OF 2021****COMMON ORDER:**

This Writ Petition is filed seeking a Writ of Mandamus to declare the action of the respondents in not entertaining and registering the sale deeds executed and presented by the petitioners in respect of all the villas/residential apartments/built up area which is part of the projects by name Gardenia Grove Villas, Greenview Apartments, the Huddle and Golden Circle in Discovery City, Srinagar Village, Maheshwaram Mandal, Ranga Reddy District on the ground of including the Sy.Nos. 227 & 230 of Srinagar Village, Maheshwaram Mandal, Ranga Reddy District in the list of Prohibited Properties as the same were stated to have been covered by a Court stay as illegal and arbitrary.

2. The facts that lead to file the present Writ Petition are that petitioner No.2 herein entered into a development agreement, dated 28.01.2008, with respondent No.4 i.e., Hyderabad Metropolitan Development Authority (for short 'HMDA'), for carrying out the development work of an integrated township. The said development

agreement consists of various mutual obligations on petitioner No.2 herein as well as on the HMDA. In terms of the said development agreement, Petitioner No.2 herein claims to have undertaken several development activities and in terms of the clauses contained in the said development agreement the petitioners herein are entitled to sell the villas/residential apartments/built up area which is part of the projects by name Gardenia Grove Villas, Greenview Apartments, to the prospective buyers. It is also the case of the petitioners that in terms of the said development agreement the petitioners have deposited an amount of Rs.25 crores as development premium amount on 24.07.2008 with the HMDA, and in terms of the said development agreement and by virtue of the power conferred under the same, the petitioners herein claimed to have sold certain villas/residential apartments/built up area which are part of the projects by name Gardenia Grove Villas, Greenview Apartments, in favour of third parties. However, when they approached the office of respondent No.1 herein for registering the said sale deeds in respect of the villas/residential apartments/built up area developed pursuant to the above said development agreement, the

respondent No.1 refused to receive and register the said documents on the ground that the subject Sy.Nos.227 & 230 are included in the list of Prohibitory Properties, on ground that there was a Court Stay. According to the petitioners the details of the alleged Court Stay are not being furnished by the respondents. Under the said circumstances the petitioners approached this Court by filing this Writ Petition seeking the relief as noted above.

3. Heard Sri D.Prakash Reddy, learned Senior Counsel appearing for Sri K.Prithvi Reddy, learned counsel for the petitioners, learned Government Pleader for Revenue for respondent Nos.1 to 3, Sri A.Sudarshan Reddy, learned Senior Counsel appearing for Ms. D.Madhavi, learned Standing Counsel for respondent No.4, Sri Pasham Krishna Reddy, learned Government Pleader for Municipal Administration and Urban Development, Ms. B.Rajeshwari, learned counsel for the petitioners in I.A.No.2 of 2022 and Sri K.Ashok Kumar, learned counsel for the petitioners in I.A.No.1 of 2022.

4. It is contended by learned Senior Counsel Sri D.Prakash Reddy, that the action of respondent No.1 in refusing to receive and process the documents that are sought to be presented by the

petitioners on the ground that the subject Sy.Nos.227 & 230 are included in the list of Prohibitory Properties without furnishing any details or reasons for including the subject property in the list of Prohibitory Properties is wholly illegal and arbitrary and further contended that in the absence of any notification issued under Section 22A of the Registration Act, 1908 (for short 'the Act, 1908) respondent No.1 is not entitled to include any of the properties in the list of Prohibitory Properties much less in the facts and circumstances of the present case. According to learned Senior Counsel absolutely there is no reason nor there is any Court Stay prohibiting registrations of the subject properties and in the absence of any such restraint order from competent Court the respondent No.1 is not entitled to refuse, receive and process the documents that are sought to be submitted by the petitioners herein. It is further contended that, as per the counter filed by respondent No.1 in the present Writ Petition, the reasons for refusing to receive and process the documents that are presented by the petitioners is only a memo said to have been addressed by the Inspector General of Stamps and Registration vide the Memo No.G3/825/2021 dated 09.11.2021. According to learned counsel

for the petitioners the said Memo No.G3/825/2021 dated 09.11.2021 was issued by the Inspector General of Stamps and Registration without having any authority and at the instance of respondent-HMDA, and the Inspector General of Stamps and Registration has no power or authority to direct inclusion of the subject property in the list of Prohibitory Properties. It is also contended that the respondent-HMDA, being a party to the development agreement, is not entitled to make any such request for inclusion of the subject properties in the list of Prohibitory Properties and in case, if the respondent-HMDA has got any grievance with regard to violation of any terms of Development Agreement or giving effect to the any of the clauses contained in the said development agreement, it is always open for the HMDA to take all such steps for enforcing its right under the said development agreement, but under no circumstance the HMDA is entitled to make a request to include the subject properties in the list of Prohibitory Properties that too in the absence of any order passed by a competent Court or Forum. Thus, according to the learned Senior Counsel, the action of respondent No.1 in including the subject property in the list of Prohibited Properties thereby

refusing to receive and process the sale deeds that are sought to be presented by the petitioners for registration is wholly illegal and arbitrary.

5. On the other hand, learned Government Pleader for Revenue contended that in view of the request made by the HMDA through its letter, dated 02.11.2021, the Inspector General of Stamps and Registration issued Memo dated 09.11.2021 to include the subject properties in the list of Prohibited Properties under Section 22A of the Registration Act, 1908.

6. Sri A.Sudarshan Reddy, learned Senior Counsel appearing for respondent-HMDA contended that in terms of the development agreement, dated 28.01.2008, the petitioners herein are under obligation to pay the total amount of Rs.100 crores to the respondent-HMDA and out of the said amount the petitioners have paid only an amount of Rs.25 crores, and the balance amount of Rs.75 crores is still due and in the absence of the petitioners discharging their obligation to pay the said balance amount of Rs.75 crores to HMDA, the respondents are not entitled to sell the said villas/residential apartments/built up area which is part of the projects by name Gardenia Grove Villas, Greenview

Apartments, the Huddle and Golden Circle to third parties. It is also contended by the learned Senior Counsel by drawing the attention of the Court to various events that have taken place prior to entering into the development agreement in question whereunder the notification issued under the Land Acquisition Act, 1894 was withdrawn and certain exemptions were granted in favour of the petitioners herein etc., and contended that a state largesse is parted with in favour of the petitioners subject to various terms and conditions as is evident from the contents of the development agreement, dated 28.01.2008. Thus, he contended that the Government interest is very much involved in the subject property and there is absolutely no illegality or arbitrariness on the part of respondent No.1 including the subject property in the list of Prohibitory Properties. Thus, it is contended that in the absence of petitioners herein fulfilling the conditions as enunciated in the development agreement they are not entitled to part with the subject property in favour of the third parties. It is also further contended that in order to avoid multiplicity of litigation and to avoid future complications the respondent-HMDA had addressed a letter dated 02.11.2021 to the Commissioner and Inspector

General of Stamps and Registration requesting not to entertain any registrations in respect of the subject property as the petitioners have failed to comply with various terms and conditions of the development agreement in question.

7. Sri Pasham Krishna Reddy, learned Government Pleader for Municipal Administration and Urban Development submitted that the petitioners are not entitled to sell any villas/residential apartments/built up area which is part of the projects by name Gardenia Grove Villas, Greenview Apartments, the Huddle and Golden Circle unless and until they fulfill all the requirements of law and fulfill the conditions that are imposed while granting lay out in their favour and further contended that it is only after obtaining occupancy certificate, the petitioners are entitled to execute any sale deeds. In the absence of fulfilling the conditions of lay out and obtaining occupancy certificate, the action of the respondent Sub-Registrar in refusing to register the subject documents is fully justified.

8. From the arguments advanced by the respective councils and from the perusal of the material on record with reference to the relief sought in this Writ Petition, it is noticed that the scope of

this Writ Petition is very narrow and limited. The grievance that is sought to be ventilated in the present Writ Petition is only the action of respondent No.1 in refusing to receive and register the documents that are sought to be presented by the petitioners for registration in respect of the subject property that is the property that is subject matter of development agreement, dated 28.01.2008. As is evident from the counter-affidavit filed by respondent No.1, the only reason for refusing to receive and register the documents that are sought to be presented by the petitioners herein is the letter dated 02.11.2021 said to have been addressed by the respondent-HMDA to the Commissioner and Inspector General of Stamps and Registration and the consequential Memo, dated 05.11.2021, issued by the Commissioner and Inspector General of Stamps and Registration, dated 05.11.2021. The relevant portion from the said counter-affidavit of respondent No.1 reads as under:-

"In this regard it is submitted that the Commissioner and Inspector General of Stamps and Registration, vide Memo No.G3/825/2021 dated 09.11.2021 has instructed respondent No.2 to include the certain properties enclosed to respondent No.4 letter No.1689/2/P/HMDA/ORR/ST/2010 dated 02.11.2021, where in it was mentioned that the petitioners are default to an amount of Rs.75 crores to the HMDA (copy enclosed). The Commissioner and Inspector General of Stamps and Registration, vide Memo No.8825/2021 dated 05.11.2021 while communicating the HMDA, letter mentioned supra, instructed to take necessary action to protect

the Government interest in the subject matter. Respondent No.2 who in turn forward the same to this respondent vide Endt.No.17391/G1/21 dated 09.11.2021 for information and necessary action. In view of the orders of the higher authorities this respondent has included the survey numbers furnished by the HMDA in the prohibited land list. Hence, the contention of the petitioners is not correct. Due to the above reason the respondent herein refused to register the documents submitted by the petitioners.

In reply to the averments made in Paras No.11 to 13 of the petitioners affidavit, it is submitted that the respondent here in discharging the duties under Registration Act, 1908 and this respondent primary duty to protect the state revenues. In the instant case petitioners defaulted an amount of Rs.75 crores to the HMDA, respondent No.4 addressed the Commissioner and Inspector General of Stamps and Registration, to recover the amounts due to the Government hence, this respondent included the suit schedule property survey numbers i.e., Sy.Nos.227 and 230 of Srinagar Village, Maheshwaram Mandal, Ranga Reddy District, in the list of Prohibited Properties as per the instructions of the higher authorities."

Under Section 22A (1)(e) of the Registration Act which reads as follows:

22-A. Prohibition of Registration of certain documents.-

(1) The following classes of documents shall be prohibited from registration, namely:

22-A (1)(e): "Any document or class of documents pertaining to the properties the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational, Cultural, Religious and Charitable Institutions, those attached by Civil, Criminal, Revenue Courts and Direct and Indirect Tax Laws and others which are likely to adversely affect those interests".

9. A perusal of the said letter, dated 02.11.2021, shows that the petitioners herein failed to comply with various obligations that were cast on the petitioners i.e., the developer and the HMDA was mislead by the developer and a contract termination notice was also issued to the developer vide the letter, dated 30.08.2021, and

the said termination proceedings are pending for finalization. By stating so, the HMDA made a request through the said letter dated 02.11.2021 to include the subject properties in the list of Prohibitory Properties under Section 22A of Registration Act, 1908.

The relevant portion from the said letter reads as under:-

"With reference to the subject project, it is to inform that the HMDA has envisaged to develop the above captioned township project in 750 acres in three phases. However, Development agreement was concluded for 374.24 acres.

As per the request of the M/s RITL (M/s Ramky Integrated Township Limited) and MOU signed on dated 10.08.2007, the Government orders vide G.O.08, dated 09.08.2007, the land acquisition notification was withdrawn by HMDA. Subsequently, the Development Agreement was concluded on the proposals under Swiss Challenge Method with the M/s Ramky Integrated Township Ltd. on dated 28.01.2008.

Further, it is to inform that as per clause 6.2(a)(i) of the Development Agreement, the Developer has to pay an amount of Rs.100 Crores (Rupees One Hundred Crores Only) as Development Premium to HUDA for the Project under Phase I and II, for which the Developer has made only a payment of Rs.25 crores (Rupees Twenty Five Crores) and HMDA is not in receipt of balance Rs.75 crores (Rupees Seventy Five Crores) till date.

Subsequently it is noticed that, the various breaches have been committed by SPV in so far as the terms of the Development Agreement are concerned which *inter alia* gives HMDA the following rights:

- a) To be paid the balance sum of Rs.75 crores (Rupees Seventy Five Crores Only) due on the Development Premium as per the timeline prescribed in the Development Agreement or any mutual extension thereto;
- b) To be furnished Primary Security and Additional Security in lieu of the said Rs.75 crores; and
- c) To be delivered the Social Amenities as encapsulated under Annexure-V of the Development Agreement.

Further, HMDA reiterate that SPV had mislead lead the authorities by independently seeking layout approvals and building permissions

in Phase-I of the Discovery City Project while the said approvals and/or permissions ought to have been taken by the SPV, duly withholding the information and obligations regarding the SPV and applying as an independent developer, which is an entity other than the SPV, on a site which otherwise was the subject matter of the SPV. As such, the said approvals/permissions are also liable to be quashed for misleading the Government and the authorities.

It is to further inform that, SPV had ample time to take corrective measures in the last one decade but any intention to abide by the terms and conditions of the Development Agreement has been found completely lacking. In this regard, the GoTS/HMDA is constrained to take action against Developer and the Development Agreement stands terminated, and all further permissions and approvals, including registration of land & assets by private parties in the said project should be kept on hold for violation of the clauses as contained in the Development Agreement.

In this connection, for the various breaches committed by M/s Ramky Integrated Township Limited ("RITL" or "SPV") in relation to the Development Agreement for the Srinagar Integrated Township Project ("Discovery City Project"), a contract termination notice vide reference 1st cited was issued by the Secretary, HMDA on 30th August 2021 ("Termination Notice").

It is further reiterated that GoTS/HMDA have a right to impose and recover penalty/damages from SPV as per the terms of the Development Agreement for which and for all violations on their part".

10. From the above, it is evident that the entire grievance of the respondent-HMDA is non-compliance of the terms and conditions of the development agreement by the developer/petitioners. As is evident from the material on record the said development agreement contains a clause providing for resolution of dispute by way of arbitration, in the event of any dispute that arises out of the said development agreement. Though the HMDA appears to have issued a notice of termination of the said development agreement

and the developer stated to have filed a Writ Petition before this Court in W.P.No.36324 of 2021 questioning the said termination notice, there is nothing on record to show that the respondent-HMDA had initiated any action as on date seeking to enforce its rights under the said development agreement, nor taken any steps for initiation of arbitration proceedings against the developer in question. Though, a notice of termination is stated to have been issued as early as on 30.08.2021, no further steps appears to have been taken by the respondent-HMDA so far. The respondent-HMDA which is a public authority and dealing with public properties and having been of the view that the developer is under obligation to pay an amount of Rs.75 crores in terms of the said development agreement, dated 28.01.2008, and failed to comply with various other terms of the same, has not initiated any action seeking compliance of the terms of the said development agreement, for payment of that Rs.75 crores as on date and safeguarding the interest of HMDA. Instead of taking appropriate legal steps for recovery of the said amount and to seek strict compliance with the terms and conditions of the development agreement including to restrain the Developer from party with the

subject property, the respondent-HMDA appears to have simply addressed a letter, dated 02.11.2021, to the Commissioner and Inspector General of Stamps and Registration and kept quite. Though, elaborate and serious arguments advanced by the learned Senior Counsel Sri A.Sudarshan Reddy by placing reliance on various documents which are placed on record contending that Government Property is being sold by the petitioner prejudicially affecting the interest of the Government and HMDA, from the feeble action that is initiated by the respondent-HMDA by simply addressing a letter, dated 02.11.2021, as noted above, this Court is of the considered view that the authorities of respondent-HMDA have failed to take appropriate steps to protect the interest of the HMDA under the terms of development agreement. Instead of taking concrete steps for safeguarding the interest of the HMDA/Government, the said authorities have simply addressed the letter dated 02.11.2021. Thus, it is seen that the authorities of the respondent-HMDA have not been acting diligently to safeguard the interest of the HMDA and this Court is constrained to gain a *prima facie* impression that the authorities of respondent-HMDA

are acting in a way, facilitating the petitioners/developer to sell the subject property in favour of third parties.

11. Sri A.Sudarshan Reddy, learned Senior Counsel also further contended that this Court cannot simply act as an umpire and it is the duty of the Court to unearth the truth from the pleadings, documents, arguments and contended that the truth is the basis of the Justice delivery system. In support of his contention, he placed reliance on a Judgment of the Hon'ble Apex Court in the case of **Kishore Samrite v. State of Uttar Pradesh and others**¹. The relevant paragraphs from the said Judgment are reads as under:-

"It has been consistently stated by this Court that the entire journey of a Judge is to discern the truth from the pleadings, documents and arguments of the parties, as truth is the basis of the justice-delivery system.

With the passage of time, it has been realised that people used to feel proud to tell the truth in the courts, irrespective of the consequences but that practice no longer proves true, in all cases. The Court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the foundation of administration of justice. Therefore, the truth should become the ideal to inspire the Courts to pursue. This can be achieved by statutorily mandating the Courts to become active seekers of truth. To enable the Courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehood, must be appropriately dealt with. The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the Court with clean hands. It is the bounden duty of the Court to ensure that

¹ (2013) (2) SCC 398

dishonesty and any attempt to surpass the legal process must be effectively curbed and the Court must ensure that there is no wrongful, unauthorized or unjust gain to anyone as a result of abuse of process of Court. One way to curb this tendency is to impose realistic or punitive costs.

The party not approaching the Court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially under Article 136 of the Constitution. While approaching the Court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to an abuse of process of Court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to an abuse of process of Court. A litigant is bound to make "full and true disclosure of facts". (Refer: **Tilokchand Motichand v. H.B. Munshi**², **A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam**³, **Chandra Shashi v. Anil Kumar Verma**⁴, **Abhyudya Sanstha v. Union of India**⁵, **State of M.P. v. Narmada Bachao Andolan**⁶, **Kalyaneshwari v. Union of India**⁷.)

The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim *jure naturae aequum est neminem cum alterius detrimento et injuria fieri locupletiolem*, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the Court should not become a source of abuse of process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the Court with clean hands.

No litigant can play "hide and seek" with the Courts or adopt "pick and choose". True facts ought to be disclosed as the Court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a Writ of the Court with soiled hands.

² (1969) 1 SCC 110

³ (2012) 6 SCC 430 : (2012) 3 SCC (Civ) 735

⁴ (1995) 1 SCC 421 : 1995 SCC (Cri) 239

⁵ (2011) 6 SCC 145 : (2011) 3 SCC (Civ) 241

⁶ (2011) 7 SCC 639 : (2011) 3 SCC (Civ) 875

⁷ (2011) 3 SCC 287 : (2011) 1 SCC (L&S) 498

Suppression or concealment of material facts is impermissible to a litigant or even as a technique of advocacy. In such cases, the Court is duty-bound to discharge rule nisi and such applicant is required to be dealt with for contempt of Court for abusing the process of Court. (**K.D.Sharma v. SAIL**⁸.)

12. Learned Senior Counsel also placed reliance on yet another Judgment of the Hon'ble Apex Court in the case of **K.Jayram and others v/s Bangalore Development Authority and others**⁹, to say that the petitioner seeking the relief under Article 226 of the Constitution of India, which is a discretionary power conferred on this Court, is required to approach this Court with clean hands.

The relevant paragraphs from the Judgment reads as under:-

"It is well-settled that the jurisdiction exercised by the High Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the Writ Court must come with clean hands and put forward all facts before the Court without concealing or suppressing anything. A litigant is bound to state all facts which are relevant to the litigation. If he withholds some vital or relevant material in order to gain advantage over the other side then he would be guilty of playing fraud with the Court as well as with the opposite parties which cannot be countenanced.

This Court in **Prestige Lights Ltd. v. State Bank of India**¹⁰ has held that a prerogative remedy is not available as a matter of course. In exercising extraordinary power, a Writ Court would indeed bear in mind the conduct of the party which is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter.

⁸ (2008) 12 SCC 481

⁹ (2021) SCC Online SC 1194

¹⁰ (2007) 8 SCC 449

13. There is no dispute about the settled legal position as declared by the Hon'ble Apex Court in the above referred Judgments. However, as already observed above, the authorities of respondent-HMDA have failed to take appropriate steps to seek to protect its interest by taking appropriate steps that are required under law but washed off their hands by simply addressing a letter dated 02.11.2021 referred to above. A party to litigation is expected to take all steps that are necessary to protect its own interest in accordance with law and initiate appropriate proceedings for safeguarding its own interest and then expect the Courts come to its rescue in accordance with law. A party to a litigation especially an authority of state cannot stay its hands, shut its mouth at the cost of public interest and expect the Courts to come to its rescue, in a matter which came before a Court irrespective of the nature and scope of the said lis that comes up before the Court concerned.

14. As already noted above, the scope of this Writ Petition is only a grievance against respondent No.1 in not entertaining registration of the documents that are sought to be presented by the petitioner herein. Therefore, this Court is unable to rise to the

expectation of the learned Senior Counsel appearing for HMDA and is constrained to make the observations as above.

15. Then, coming back to the facts of the present case and the lis involved in this Writ Petition, it is clear that the only reason for not receiving and not entertaining the documents for registration that are sought to be presented by the petitioners by respondent No.1 is the Memo, dated 05.11.2021, issued by the Commissioner and Inspector General of Stamps and Registration, directing inclusion of the subject property in the list of Prohibitory Properties by relying upon the letter dated 02.11.2021 of the respondent HMDA. As already noted above, the whole grievance of the HMDA as is evident from the said letter, dated 02.11.2021, is only about violation of various clauses contained in the development agreement, dated 28.01.2008, entered into in between the HMDA and petitioner No.2. As already observed above, the respondent-HMDA instead of taking appropriate concrete steps for protecting its interest, addressed the said letter, dated 02.11.2021. Basing upon such a letter, neither the Commissioner and Inspector General of Stamps and Registration can direct inclusion of the subject property in the list of Prohibitory Properties nor respondent

No.1 can include the subject property in the list of Prohibited Properties, and refuse to receive and register the documents on that ground alone especially in the absence of such a request not falling within the scope and ambit of Section 22A of Registration Act, 1908 and in the absence of any notification issued under Clause (e) of Sub-Section (1) of Section 22A of Registration Act, 1908. It is also not the case of any of the respondents that the subject property falls within the scope and ambit of Section 22-A of Registration Act, 1908. Thus, this Court has no hesitation to hold that the action of respondent No.1 in including the subject property in the list of Prohibited Properties, basing upon the Memo, dated 05.11.2021, and the letter of respondent-HMDA dated 02.11.2021, and thereby refusing to entertain the registration of the documents that are sought to be presented by the petitioner is wholly illegal and arbitrary.

16. In the circumstances, and for the reasons mentioned herein above, the Writ Petition is allowed and respondent No.1 is directed to receive, process and register the documents that are sought to be presented by the petitioner in respect of the subject property without reference to the Memo, dated 05.11.2021 and letter No.

1689/2/P/HMDA/ORR/ST/2010 dated 02.11.2021 subject to, however, such documents complying with the requirements of the Registration Act, 1908, Indian Stamp Act, 1899, and there are no other orders restraining registration of the subject property by any competent Court or Forum. In so far as contentions of Sri Pasham Krishna Reddy, learned Government Pleader for Municipal Administration and Urban Development are concerned, it is always open for the respondent No.1 to consider any such legal impediments as noted above for registering any documents presented before him and this Court has not expressed any opinion on the same.

I.A.NOs.1 and 2 of 2022

17. The petitioners in I.A.Nos.1 and 2 of 2022 claiming right and title in various extents of land situated in various survey numbers including Sy.Nos.227 & 230 and they have also appear to have initiated appropriate Civil proceedings before the competent Civil Court. If at all the petitioners in the said interlocutory applications have got any such right and interest in the land which is subject matter of this Writ Petition, it is always open for them to take appropriate steps for protecting their interest either in the pending

Civil Suits or by initiating appropriate proceedings against the petitioners herein or against the respondents herein. In the absence any restraint order restraining the petitioners herein from alienating or parting with the subject property which is subject matter of this Writ Petition or in the absence of any order restraining respondent No.1 Sub-Registrar from entertaining registration in respect of the subject property, the petitioners in the said interlocutory applications under no circumstances can seek any relief in the present Writ Petition nor entitled to come on record. In case the petitioners herein are able to obtain any such restraint orders from any competent Court or Forum restraining the petitioners herein or respondent No.1 from registering any documents in respect of the subject property, it is always open for them to bring the same to the notice of respondent No.1 about such restraint orders and in such an event respondent No.1 is always free to take appropriate action in accordance with law. As of now, no such restrained order restraining the petitioners herein from alienating the subject property or any order restraining respondent No.1 from entertaining registration of document in

respect of the subject property is placed on record nor brought to the notice of this Court.

18. In the light of the above and subject to observations made herein above, this Court is of the considered view that the petitioners in the said interlocutory applications are neither necessary nor proper parties to this Writ Petition. Accordingly, the said interlocutory applications are dismissed, however subject to the observations made herein above.

As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand closed. There shall be no order as to costs.

MUMMINENI SUDHEER KUMAR, J

Date: 30.11.2022

Note: - L.R. Copy to be marked

(B/o)

Nds

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

I.A.Nos.1 AND 2 OF 2022

IN/AND

WRIT PETITION No. 36909 OF 2021

Date: 30.11.2022

Nds