

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

**WEDNESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO: 40236 OF 2022

Between:

Ramesh Sharma, S/o.late Satyanarayan Sharma, Age. 46 years., R/o. 14-6-414, Chudi Bazaar, Hyderabad-500012.

...PETITIONER(S)

AND

1. The State of Telangana, Rep.by its Principal Secretary, Revenue Department, Secretariat Buildings, Saifabad, Hyderabad.
2. The Director and Chief Commissioner of Stamps and Registration, Government of Telangana, Hyderabad,
3. The District Collector, Hyderabad District.
4. The Sub-Registrar, Doodhbowli, 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 or order or direction, more particularly one in nature of Writ of Mandamus, to declare the action of the 4th respondent in not receiving documents pertaining to the property in Municipal Nos.14-2-335 (14-2-335/1), situated at Gyan Bagh Palace, Goshamahall, Hyderabad on the ground of the order of this Hon'ble Court in CMA No.118/2020, dt.08.10.2020, to which the vendor of the petitioner herein is not a party and which does not operate against the share of the said vendor Smt. Durreshwar Pillai Haycraft in so far as the total extent of land of 50107 sq.yds, as arbitrary, unreasonable and illegal and to issue a consequential direction to the 4th respondent to receive, register and release the documents presented by the petitioners pertaining to the property admeasuring 758.58 Sq. yards in Municipal Nos.14-2-335 (14-2-335/1), situated at Gyan Bagh Palace, Goshamahall, Hyderabad, without reference to the pendency of OS No. 781 of 2019 or the CMA No. 118 of 2020,

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 4th respondent to receive, register and release the documents presented by the petitioner pertaining to the property admeasuring 50,107 sq.yds in Municipal Nos.14-2-335 (14-2-335/1), situated at Gyan Bagh Palace, Goshamahal, Hyderabad, without reference to the pendency of OS No. 781 of 2019 or the CMA No. 118 of 2020, pending disposal of the main Writ Petition

Counsel for the Petitioner(s):SRI. VEDULA CHITRALEKHA

Counsel for the Respondents: GP FOR REVENUE

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.40236 OF 2022

ORDER:

Heard Sri Vedula Srinivas, learned senior counsel appearing for the petitioner and learned Assistant Government Pleader for Stamps and Registration, appearing for respondents.

2. The grievance of the petitioner in this Writ Petition is against respondent No.4 in not receiving and processing the sale deed sought to be presented by the vendor of the petitioner namely Smt Durreshwar Pillai Haycraft, in respect of undivided property admeasuring 758.58 square yards equivalent to 693.64 square meters, bearing Municipal No.14-2-335, out of total extent of 50,000 square yards, situated at Gyan Bagh, Goshamahahal, Hyderabad.

3. It is the case of the petitioner that his father got the subject property under a preliminary decree for partition passed by a competent Civil Court in O.S.No.76 of 1970, dated 27.06.1986 and through the subject sale deed, the vendor of the petitioner intends to sell 6% undivided share fell to her share under the said preliminary decree passed by the Civil Court. The said document is not being received by respondent No.4 on the ground that there was an order passed by this Court in

C.M.A.No.118 of 2020, dated 08.10.2020. A perusal of the said order read with the order passed in I.A.No.1490 of 2019 in O.S.No.781 of 2019 on the file of III Additional Chief Judge, City Civil Court, Hyderabad, shows that the said order was passed in respect of land admcasuring 600 square yards of undivided share in the premises bearing No.14-2-335, situated in Ghyan Bagh, Goshamahahal, Hyderabad.

4. The property which is now sought to be subjected to registration of sale deed is an undivided share, out of total extent of 50,000 square yards, and the same is being offered for sale by the vendor of the petitioner by virtue of rights accrued to her under preliminary decree passed by a competent Civil Court. As the order passed by this Court in C.M.A.No.118 of 2020 is only in respect of 600 square yards of undivided share and there is no restriction against the vendor of the petitioner nor the vendor of the petitioner is a party to the said C.M.A.No.118 of 2020 or O.S.No.781 of 2019, the action of respondent No.4 in refusing to receive and process the sale deed that is sought to the presented by the vendor of the petitioner in respect of the above referred property, is not in accordance with law.

5. Further, a perusal of the copy of draft sale deed placed on record shows that the vendor of the petitioner intends to sell undivided share to the extent of rights accrued to the vendor of the petitioner under preliminary decree referred to above. The relevant paragraph from the said sale deed is reads as under:

"The Vendee hereby unconditionally declares and acknowledges that only a 6% undivided share in the said "schedule property" being approximately 758.58 square yards or thereabouts or approximately 693.64 square mts or thereabouts, is being sold under these presents and that he shall have no right, title and/or interest of whatsoever nature in respect of the "Balance Property" or any part thereof and that the same shall continue to vest in the Vendor along with the other co-sharers/co-owners absolutely."

6. In the facts and circumstances of the case as noted above, the action of respondent No.4 in refusing to receive and process the document sought to be presented by the petitioner and his vendor in respect of above referred property i.e., 758.58 square yards being part of Municipal property bearing No.14-2-335 is not in accordance with law and the Sub-Registrar is under obligation to receive and process the document that is presented for registration in terms of Section 71 of the Registration Act, 1908 read with Rule 58 of the Telangana Rules under the Registration Act, 1908.

7. Accordingly, the Writ Petition is disposed of directing respondent No.4 to receive and process the sale deed that is sought to be presented by the vendor of the petitioner in respect of undivided property admeasuring 758.58 square yards equivalent to 693.64 square meters bearing Municipal No.14-2-335, out of total extent of 50,000 square yards, situated at Gyan Bagh, Goshamahal, Hyderabad, without reference to the order passed in C.M.A.No.118 of 2020, dated 08.10.2020 and complete the same within a period of three weeks from the date of presentation of the document. There shall be no order as to costs.

Miscellaneous petitions, pending if any in this Writ Petition, shall stand closed.

//TRUE COPY//

SD/- N. RAMESH
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Principal Secretary, Revenue Department, Secretariat Buildings, Saifabad, Hyderabad.
2. The Director and Chief Commissioner of Stamps and Registration, Government of Telangana, Hyderabad.
3. The District Collector, Hyderabad District.
4. The Sub-Registrar, Doodhbowli, Hyderabad.
5. One CC to SRI VEDULA CHITRALEKHA Advocate [OPUC]
6. Two CCs to GP FOR REVENUE, High Court for the State of Telangana. [OUT]
7. Two CD Copies:

HIGH COURT

MSKJ

DATED:02/11/2022



ORDER

WP.No.40236 of 2022

WP IS DISPOSED WITHOUT COSTS