

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

FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO: 46712 OF 2022

Between:

1. Sadhinoni Mahendra Rao, S/o.S. Venkat Rao, Aged about 70 years, Occ. Business, R/o.H.No.1-9-24, Street No.8, Habsiguda, Secunderabad, Hyderabad.
2. Mosali Amarender Reddy, S/o. Mosali Krishna Reddy, Aged about 43 years, Occ: Business, R/o. Flat No.204 Devi Home, Sudha Nagar, Road No.1, Poorzadiguda village, Ghatkesar Mandal, Behind Sharadha Vidya Mandir, Boduppal, Ranga Reddy District.

...PETITIONERS

AND

1. The State of Telangana, Rep by its Principal Secretary, Stamps and Registration Department, Secretariat Buildings, BRKR Bhavan, Tank bund, Hyderabad.
2. The Commissioner and Inspector General of Registration and Stamps, M.J. Market, Hyderabad, Telangana State.
3. The Sub-Registrar, SRO-Yadagirigutta, Yadadri Bhuvanagiri District.

...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 an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in refusing to receive, register and release the documents presented by the Petitioners in respect of an approved layout plots bearing Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 in Sy.No.191, 193, 194 Part in Sri Laxminagar situated at Pathagutta, Datharpally village, Yadagirigutta Mandal, Nalgonda District on the Ground of Memo bearing No.G2/257/2019 dated 26.08.2020 and 29.12.2020 issued by the 2nd respondent, under the provisions of prohibition of registration of unauthorized plots and buildings as illegal, arbitrary, violative of Article 14 and 300-A of the Constitution of India apart from being ultra vires of provisions of Registration Act, 1908 and consequently direct the 3rd respondent to forthwith receive, register and release the documents presented by the petitioners in respect of an approved layout

plots bearing Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 in Sy.No.191, 193, 194 Part in Sri Laxminagar situated at Pathagutta, Datharpally village, Yadagirigutta Mandal, Nalgonda District.

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 3rd respondent to forthwith receive, register and release the documents presented by the petitioners in respect of an approved layout plots bearing Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 in Sy.No.191, 193, 194 Part in Sri Laxminagar situated at Pathagutta, Datharpally village, Yadagiri-gutta Mandal, Nalgonda District pending disposal of the above writ petition

Counsel for the Petitioners: SRI MOHD SUBHAN PASHA

Counsel for the Respondents: ASST. GP FOR STAMPS AND REGISTRATION

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.46712 of 2022

ORDER:

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Stamps and Registration appearing for the respondents.

2. This Writ Petition is filed seeking to declare the action of respondent No.3 in refusing to receive, register and release the documents presented by the petitioners in respect of an approved layout bearing plot Nos.1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 in Survey Nos.191, 193, 194 part situated at Sri Laxminagar, Pathagutta, Datharpally Village, Yadagirigutta Mandal, Nalgonda District, basing on the Memo bearing No.G2/257/2019 dated 26.08.2020 and 29.12.2020 issued by respondent No.2, under the provisions of prohibition of registration of unauthorized plots and buildings, as arbitrary and illegal.

3. It is the specific contention of learned counsel for the petitioners that the above referred Memo has no application to the plots situated in an approved layout and the same was also clarified by a Division Bench of this Court in W.P (PIL) No.210 of 2020, dated 28.07.2021. The relevant portion of the said judgment reads as under:

*Counter affidavit has been filed by the respondent Nos. 1 and 2 stating *inter alia* that pursuant to the issuance of Memo dated 26.08.2020, it was noticed that certain difficulties have been faced by the public. To obviate the said difficulties, modification of the aforesaid instructions has been issued on 29.12.2020, whereby registrations have been permitted in respect of open plots/structures, if the same have been acquired by the present owner through a valid registered document executed earlier. However it has been directed that no new plot shall be registered, unless it is approved by the competent authority or is in an authorized layout. The connotation of the word 'new plot' is a fresh plot which is brought for registration for the first time or being sold by the developers for the first time. It has also been clarified that there is no restriction on registration of plots in authorized layouts, plots regularized under earlier LRs schemes and buildings/structures covered under earlier BPS/BRS schemes.

2. Mr. Harinder Parshad, learned Special Government Pleader appearing for the respondents states that there is no prohibition on alienation/transfer of individual property. The prohibition is only for registration of plots/structures registered by the developers in an unauthorized layout or structures*.

4. In view of specific contention raised by learned counsel for the petitioners that the subject plots are part of an approved layout approved by the Gram Panchayat concerned, this Court does not find any justification for the respondent-Sub Registrar in refusing to receive and process the documents presented for registration in respect of the subject plots. Further, by virtue of Section 71 of the Registration Act, 1908, the respondent-Sub Registrar is under obligation to receive the documents and process the same, in accordance with law.

5. Therefore, the action of the respondent-Sub Registrar in refusing to receive any document for registration in respect of the subject plots, is totally arbitrary and illegal. The Judgment of this Court in W.P.No.9248 of 2021, dated 23.08.2021 and the Memo impugned in the said writ petition are in respect of the plots, which are in an unapproved layout but not in respect of the plots, which are part of an approved layout. Thus, there cannot be any impediment for the respondents to register the documents in respect of the plots, which are part of an approved layout and also in respect of the plots, which were already subjected to registration. Equally, the interim order passed in SLP (Civil) No.19695 of 2021, dated 18.05.2022 is not a ground to entertain registration in respect of the plots, which are part of an approved layout.

6. In the light of the above, the Writ Petition is disposed of directing respondent No.3 to receive the documents that are sought to be presented by the petitioners in respect of the subject plots and also process the same, in accordance with law, by duly verifying the same as to whether they are part of approved layout or not and pass appropriate orders thereon, in accordance with law, within a period of four weeks from the date of presentation of the said documents by the petitioners. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Stamps and Registration Department, The State of Telangana, Secretariat Buildings, BRKR Bhavan, Tank bund, Hyderabad.
2. The Commissioner and Inspector General of Registration and Stamps, M.J. Market, Hyderabad, Telangana State.
3. The Sub-Registrar, SRO-Yadagirigutta, Yadadri Bhuvanagiri District.
4. One CC to SRI MOHD. SUBHAN PASHA, Advocate [OPUC]
5. Two CCs to GP FOR STAMPS AND REGISTRATION, High Court for the State of Telangana. [OUT]
6. Two CD Copies

BN
GJP



HIGH COURT

DATED:30/12/2022

ORDER

WP.No.46712 of 2022



DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

① mbc
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