



Writ Petition No.3792 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.3792 of 2023
and WMP.No.3861 of 2023

M/s.Himagiri Group Rep. by its Proprietor,
Sri B.Poorna Chandra Reddy (M/60),
S/o Sri B.Seena Reddy,
Flat No.301, Himagiri Homes,
No.131/1-A2, Marenahalli,
J.P.Nagar 2nd Phase, Bengaluru – 560 078.

... Petitioner

-Vs-

1. The State of Tamil Nadu Rep. by its Secretary,
Commercial Taxes & Registration Department,
Fort St. George, Chennai – 600 009.

2. The District Registrar of Registrations,
Krishnagiri District.

3. The Sub-Registrar,
Hosur Taluk, Hosur,
Krishnagiri District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to the 3rd respondent's refusal check slips No.RFL/Hosur/60/2022 dated 08.12.2022, to quash the same and to consequently directing the 3rd respondent to register the sale deeds that



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are executed by the petitioner in respect of sites/plots carved out in Sy.No.96/2B, Sy.No.96/3B and Sy.No.96/4 of Eluvapalli Village in Hosur Taluk in the Layout called “HIMAGIRI CITY”, Sector – II, North Gate.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus to quash the impugned refusal check slip of the 3rd respondent in refusal check slip No.RFL/Hosur/60/2022 dated 08.12.2022 and to consequently directing the 3rd respondent to register the sale deeds that are executed by the petitioner in respect of sites/plots carved out in Sy.No.96/2B, Sy.No.96/3B and Sy.No.96/4 of Eluvapalli Village in Hosur Taluk in the Layout called “HIMAGIRI CITY”, Sector – II, North Gate.

2. The petitioner presented a document for registration before the third respondent, which has been refused to be taken up for registration and in this regard, a refusal check slip dated 08.12.2022 has been issued. Challenging the same, the present writ petition has been filed.



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3. Heard Mr.L.Chandrakumar, learned counsel appearing for the petitioner, who would submit that the reason cited by the third respondent i.e., Sub-Registrar to refuse to register the document presented by the petitioner is that the Government of Andhra Pradesh has issued Government Orders in G.O.Ms.No.23, Home (ARM & SPF) Department, dated 20.12.2015 and G.O.Ms.No.21, Home (General -A2) Department, dated 29.02.2016, based on these two Government Orders, the objection had been raised by the Sub-Registrar stating that under these two Government Orders issued by the Government of Andhra Pradesh, what are all the properties that stood in the name of Agri Gold company would be attached and those documents cannot be encumbered with further. Insofar as this embargo is concerned, learned counsel appearing for the petitioner would point out that this position has been clarified by a judicial order passed by the High Court of Andhra Pradesh in the matter of ***Sri Thotavenkata Naga Ravikanth Vs. The State of Andhra Pradesh*** in ***W.P.No.15669 of 2020*** dated ***07.09.2020***, where he relied upon paragraph 9 of the order passed by the High Court of Andhra Pradesh, which reads thus:

“9. While so, the impugned notice dated 21.06.2020 shows that the same was issued by 3rd respondent directing



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the petitioner to deposit the damages into the bank account of the Competent Authority on the ground that the subject property was attached by the Government as per G.O.Ms.No.23, Home (ARMS & SPF) Department, dated 20.02.2015. There can be no demur that in view of Section 3 of the Act mentioned supra, the Government have power to issue ad-interim order of attachment of a property in the interests of the depositors upon fulfilment of the conditions mentioned in the said section. The petitioner is not questioning the statutory power of the Government. However, his concern is that even the said G.O.Ms.No.23 itself has exempted from attachment of those properties which were registered prior to the registration of the Crime on 01.03.2015 by the Police of Pedapadu Police Station and the subject property being registered on 05.07.2013, the same will not fall within the purview of the said G.O. I find force in the said contention. In the Annexure – I of the G.O.Ms.No.23, it was mentioned thus. “Except the plots that were registered in the respective Sub-Registrar Officers before the Criminal cases were registered i.e., 01.03.2015 at Pedapadu, West Godavari District, the rest of the land shall cover under the above G.O.” The aforementioned stipulation shows that the plots which were belonging to Agri Gold company and which were sold under registered documents prior to 01.03.2015 were excepted from the purview of the G.O.Ms.No.23. It goes



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without saying that any constructions made on those plots and sold prior to 01.03.2015 will also be exempted from G.O.Ms.No.23. The copy the Sale Deed executed in favour of the petitioner by Agri Gold Constructions Private Limited through its authorised signatory shows that it was registered on 05.07.2013. Therefore, in view of the above stipulation in G.O.Ms.No.23, the subject property can be said to have been exempted from attachment even assuming that the said property was acquired with the funds collected from the depositors. In that view, the impugned notice is not sustainable.”

4. Relying upon this portion of the order, learned counsel would contend that the stipulation mentioned in the two Government Orders referred to above are concerned, such attachment would come into effect for those properties stood in the name of Agri Gold Company as on 01.03.2015, in other words, the property sold in favour of the Agri Gold, who purchased the same on or after 01.03.2015 alone are to be subjected to these attachment, that means, those properties purchased by the Agri Gold Company prior to 01.03.2015 and sold or exploited or encumbered would not be covered under the import of the said Government Orders.



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5. Citing these developments i.e., import of the judgment referred to above, learned counsel for the petitioner would canvass the point that, insofar as the present property is concerned, for which, the document in question was presented for registration, that property was not purchased on or after 01.03.2015 by the said Agri Gold Company, therefore, it is not covered under the Government Orders referred to above. Hence, the reason cited by the Sub-Registrar in the impugned refusal check slip would not be sustained, he contended.

6. I have heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents. He has made an attempt to sustain the order passed by the Sub-Registrar by citing the reason that the import of the Government Orders i.e., G.O.Ms.No.23, Home (ARM & SPF) Department, dated 20.12.2015 and G.O.Ms.No.21, Home (General -A2) Department, dated 29.02.2016 issued by the Government of Andhra Pradesh, cannot be interpreted according to the convenience of the petitioner and therefore, the reasons cited by the third respondent i.e., Sub-Registrar has to be sustained in view of the categorical Government Orders issued in this regard by the State of



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Andhra Pradesh and the learned Special Government Pleader wants to sustain the reason cited in the impugned refusal check slip.

7. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. The following words are used in paragraph 9 of the judgment referred to above “The aforementioned stipulation shows that the plots which were belonging to Agri Gold company and which were sold under registered documents prior to 01.03.2015 were excepted from the purview of the G.O.Ms.No.23.”

9. The High Court of Andhra Pradesh therefore has clarified in clear terms that, the embargo put in against the properties, which were purchased by the Agri Gold company is concerned as per the two Government Orders i.e., G.O.Ms.No.23, Home (ARM & SPF) Department, dated 20.12.2015 and G.O.Ms.No.21, Home (General -A2) Department, dated 29.02.2016 referred to above issued by the State of



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Andhra Pradesh, those properties if it is purchased on or after 01.03.2015 alone can be subjected to such conditions of the Government Orders that there may be a attachment of those properties, which cannot be sold or exploited or encumbered by anyone.

10. However, the property in question was not purchased on or after 01.03.2015 and it was a prior purchase and sale i.e., prior to 01.03.2015 and therefore, not covered under the aforesaid Government Orders in view of the law having been declared by the High Court of Andhra Pradesh in the judgment cited supra. Therefore, this Court has not hesitation to hold that the reason stated by the third respondent in the impugned refusal check slip is not sustainable and accordingly, the said order is to be interfered with.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

- ◆ That the impugned order is set aside and the matter is remitted back to the third respondent for reconsideration.
- ◆ While reconsidering the same, without citing the reason now being



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quashed, the third respondent shall independently scrutiny the document and if it is found in order in all respects, the same shall be proceeded to register by the third respondent in the manner known to law.

- ◆ The needful as indicated above shall be undertaken by the third respondent within a period of four(4) weeks from the date of receipt of a copy of this order.

With these directions, this writ petition is disposed of. No costs.

Connected miscellaneous petition is closed.

23.02.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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R. SURESH KUMAR, J.

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To

1. The Secretary,
Commercial Taxes & Registration Department,
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Krishnagiri District.
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