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

WEDNESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

**PRESENT**

**THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY**

**WRIT PETITION NO: 3402 OF 2007**

**Between:**

Smt.L.Jayaprada Reddy, W/o Dr. L. Narayana Reddy, rep by her GPA Dr.L. Manohar Reddy, aged 44 years, Occ : Business, R/o 8-2-276 M, Indradhanush Road No.2, banjara Hills, Hyderabad.

**...PETITIONER**

**AND**

1. The Government of Andhra Pradesh, rep by its, Principal Secretary, Revenue Department Secretariat, Hyderabad.
2. The Special Officer and Competent, Authority, Urban Land Ceilings, 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, order or Direction, more particularly one in the nature of Writ of mandamus declaring the action of the respondents as arbitrary and set a side G.O.ms. No. 944 Rev. (UCII) Department dated 19-07-2006, Letter No. I.1/9600/2005 dated 09-11-2006 of the District Collector, Hyderabad and the Notice under Sub-Section 3 of Section 10 of the Urban Land (Ceiling and Regulation) Act 1976 issued through notification in A.P. Gazette No. 248 dated 25th July 2006.

**I.A.NO:1 OF 2007(WPMP. NO: 4341 OF 2007)**

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 suspend the operation of the G.O.Ms. No. 944 Revenue (UCII) Department dated 19-07-2006 issued by the Government of Andhra Pradesh, Hyderabad and also Memo No.1.1/9600/2005 dated 09-11-2006 issued by the Collector, Hyderabad.

**I.A.NO:2 OF 2007(WPMP. NO: 4342 OF 2007)**

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 suspend the notice issued under Sub-Section 3 of Section 10 the Urban Land Ceiling and Regulation) Act 1976 issued in Notification in A.P. Gazette No. 248 dated 25-07-2006 pending disposal of the writ petition.

**I.A.NO:1 OF 2022**

**Between:**

1. The Government of Andhra Pradesh, rep by its, Principal Secretary, Revenue Department Secretariat, Hyderabad.
2. The Government of Telangana, rep by its, Principal Secretary, Revenue Department Secretariat, Hyderabad.
3. The Special Officer and Competent, Authority, Urban Land Ceilings, Hyderabad.

**....PETITIONERS/RESPONDENTS**

**AND**

Smt.L.Jayaprada Reddy, W/o Dr. L. Narayana Reddy, rep by her GPA Dr. L. Manohar Reddy, aged 44 years, Occ : Business, R/o 8-2-276 M, Indradhanush Road No.2, banjara Hills, Hyderabad.

**...RESPONDENT/PETITIONER**

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 vacate the interim orders in W.P.M.P.No.4342 of 2007 in W.P.NO.3402 of 2007 Dated: 05-03-2007 and dismiss the writ petition.

**Counsel for the Petitioner : SRI.SATHVIK MAKUNUR, ADV FOR M/s.A.DEEPTHI**

**Counsel for the Respondent No.1 : GP FOR REVENUE**

**Counsel for the Respondent No.2 : G.P FOR LAND CEILING**

**The Court made the following ORDER**

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

**WRIT PETITION No.3402 of 2007**

**ORDER:**

This writ petition is filed assailing the action of the respondent No.1 in issuing G.O.Ms.No.944 Revenue (UC.II) Department dated 19.07.2006 whereunder exemption granted to the petitioner under Section 20(1)(b) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the ULC Act') to an extent of 3123.44 sq. meters in premises No.8-2-674/2/-B, Banjara Hills, Shaikpet (Village and Mandal), Hyderabad, vide G.O.Ms.No.253 Revenue (UC.II) Department dated 09.02.1983 was withdrawn. The notice under sub-section (3) of Section 10 of the ULC Act in respect of the said land is also challenged in the writ petition.

2. The brief facts of the case, as stated in the writ affidavit, are set out hereunder:

(a) An extent of 8,361 sq. meters of land in premises bearing No.8-2-674/2/-B, Banjara Hills, Shaikpet (Village and Mandal), Hyderabad, was originally owned jointly by one Smt. Y. Vanajakshi, W/o. Y. Govindu, Smt. Radhika, W.o. Sri Venkataramana, Kumari Pravina, D/o. Y. Govindu, Pramod Kumder, S/o. Y. Govindu and Master Pankaj Kumar, S/o. Y. Govindu. The above said persons, desirous of alienating the entire extent of land, entered into agreement of sale dated 22.08.1974 with the petitioner and handed over possession of the same. The owners filed declarations under Section 6(1) of the ULC Act in CC.No.E2/3627 to 2629/76 dated 27.06.1976 and the declarants were held to be entitled to a retainable extent of 3902 sq. meters, out of total extent of 8361 sq. meters. The Government of Andhra Pradesh issued G.O.Ms.No.253 Revenue (UC.II) Department dated 09.02.1983 granting exemption under Section 20(1)(b) of the ULC Act for an extent of 3121.44 sq. meters in favour of Smt. Y. Vanajakshi and her minor son, Pankaj Kumar.

(b) The petitioner needed remaining 1335.45 sq. meters to commence construction of hospital. The petitioner requested the Government to allot the excess land falling to the share of Smt. Vanajakshi and other major children, namely, Sri. Pramod Kumar, Ms. Radhika and Ms. Praveena in the proportion of 548.38 sq. meters, 238.72 sq. meters and 548.35 sq. meters respectively, acquired by the Government and it is stated to be in possession of the writ petitioner by virtue of her purchase vide registered sale deeds. The petitioner had been persistently pursuing with the authorities and in the year 2004. The Government allotted excess vacant land under Section 23(4) of ULC Act to an extent of 1335.48 sq. meters upon payment of requisite amount, vide G.O.Ms.No.300 dated 25.03.2004. Thus the petitioner had been in possession of the entire extent of 8361 sq. meters, which includes 3902 sq.

meters retainable area, 3123.44 sq. meters exempted vide G.O.Ms.No.253 dated 09.02.1983 and 1335.45 sq. meters exempted vide G.O.Ms.No.300 dated 25.03.2004 only in the year 2004 despite petitioner entering into agreement of sale in the year 1974. The petitioner could not proceed with the construction of hospital as utilization of the entire extent of 8361 sq. meters was made possible only in the year 2004.

(c) It is stated that the petitioner was actively pursuing her application for NOC for construction of hospital dated 20.10.2005. While so, she was informed by communication bearing No.11/9600/2005 dated 09.11.2006 from the office of the Collector, Hyderabad that the respondent No.1 issued the impugned orders withdrawing the exemption granted to an extent of 3123.44 sq. meters in 1983. The exemption was withdrawn on the ground that nursing home was not constructed and that the subject land is kept vacant till date and the same was sold to various persons. It was also stated that despite issuing show cause notice alleging that the petitioner and Smt. Vanajakshi violated conditions of G.O.Ms.No.253 Revenue (UC.II) Department dated 09.02.1983 for constructing a hospital, not reply was received either from the petitioner or Smt. Vanajakshi and as such, exemption was withdrawn.

3. Mr. C.V. Mohan Reddy, learned senior counsel, representing Mr. Sathvik Makunur, learned counsel for the petitioner, submitted that petitioner has not received any show cause notice prior to issuance of the impugned G.O. As per extract of G.O.Ms.No.944 dated 18.07.2006, the addresses of the persons to whom office orders are to be sent are not mentioned. The address of the petitioner was clearly mentioned in G.O.Ms.No.300 dated 25.03.2004. All the earlier communication and correspondence were addressed to such address. The allegation in the impugned G.O. that the petitioner has sold away the land to various persons is incorrect. The application for NOC for construction of hospital was pending with the office of the District Collector, Hyderabad. The husband of the petitioner, namely, Dr. L. Narayana Reddy, a renowned Plastic Surgeon in USA, had been regularly visiting India to pursue NOC for construction of hospital.

4. Learned senior counsel submitted that the impugned G.O. is issued in violation of principles of natural justice. Apart from that, the exemption granted to the petitioner was under clause (b) of sub-section (1) of Section 20 of the ULC Act on the ground of hardship to the declarants/owners and not on the ground of public interest. Learned senior counsel referred to contents of G.O.Ms.No.253 dated 09.02.1983 and G.O.Ms.No.186 dated 02.03.1977. It is contended that the exemption under

G.O.Ms.No.253 dated 09.02.1983 was not granted without any condition of construction of hospital. According to the learned senior counsel, incidentally it was mentioned that hospital is proposed to be constructed by the petitioner and agreement was entered into to purchase the said land and use it for such purpose. It is contended that on a reading of G.O.Ms.No.253 dated 09.02.1983 it would be abundantly clear that the exemption was granted not with a condition of construction a hospital and it was only to avoid hardship to the declarant, who has received sale consideration and delivered possession of the subject property to the petitioner and also taking into consideration the fact that the petitioner has paid Rs.30,000/- to the declarant to clear dues payable to the Income Tax Department.

5. Learned Government Pleader for Assignment submitted that the petitioner violated the terms and conditions of G.O.Ms.No.253 dated 09.02.1983. The respondent No.1 granted exemption to the petitioner to facilitate the public at large for providing medical necessities and to enable the petitioner to construct hospital. The application for exemption was submitted by the petitioner and the declarant seeking exemption for construction of a hospital. The Government, after considering the assurances of the petitioner that she will use the entire land for the purpose of construction of a hospital allotted the land under Section 23(4) of the ULC Act vide

G.O.Ms.No.3000 dated 25.03.2004. While so, two persons, namely, D. Venkateswara Rao and Gurrala Suresh Chander, submitted an application requesting the District Collector to issue NOC for premises No.8-2-674/B/218 stating that they are the purchasers of the land to an extent of 209 and 360 sq. meters respectively under registered sale deeds and they are in possession of the same. The District Collector vide letter No.11/5257/2005 dated 06.11.2005 requested the Special Officer and Competent Authority to furnish information and the stage of ULC proceedings on the above subject land. During the enquiry, it was found that the Smt. Vanajakshi, the declarant in C.C.No.E2/3630/76, in whose favour exemption has been granted, has violated the terms and conditions of the allotment. That the land was kept vacant and sold to various persons. Having noticed that the transferee has violated the conditions, decision was taken to cancel the exemption order and to process the applications received under G.O.Ms.No.455 dated 29.07.2002 for regularization of the land.

6. Learned Government Pleader further submitted that show cause notice was issued to the transferor and transferee viz. Smt. Y. Vanajakshi and Smt. L. Jayaprada Reddy (petitioner herein). The show cause notice was served on the petitioner by duly taking acknowledgement of the watchman, who was residing the premises, namely, Krishna Behra. As there was no response,

G.O.Ms.No.944 Revenue (ULC) Department dated 19.07.2006 withdrawing the exemption granted to the petitioner. The petitioner failed to construct the hospital. The condition of construction of hospital was clearly mentioned in G.O.Ms.No.253 dated 09.02.1983. The petitioner, having failed to construct hospital form more than 25 years from the date of exemption, is estopped from, denying the validity and binding effect of resumption order. The petitioner applied for allotment of surplus land in terms of G.O.Ms.No.455 dated 29.07.2002 vide application No.E2/455/50/2002 and thus, has accepted the title and vesting of land with the Government. Considering the request of the petitioner, the Government regularized the land in possession of the petitioner to an extent of 1335.48 sq. meters vide G.O.Ms.No.300 dated 25.03.2004 in premises No.8-2-674/2/B, Road No.13, Banjara Hills, Hyderabad. The surplus land was allotted to D. Venkateswara Rao to an extent of 209 sq. meters and D. Suresh Chander, to an extent of 360 sq. meters vide G.O.Ms.No.1474 Revenue (ULC) Department dated 07.10.2006. The said persons are necessary parties to this *lis*. This writ petition is liable to dismissed on that ground being devoid of merits.

7. Heard Mr. C.V. Mohan Reddy, learned senior counsel, representing Mr. Sathvik Makunur, learned counsel for the petitioner and learned Government Pleader for Assignment.

8. Section 20 of the ULC Act reads as under:

**20** (1) Notwithstanding anything contained in any of the foregoing exempt, provisions of this Chapter

(a) where any person holds vacant land in excess of the ceiling limit and the State Government is satisfied, either on its own motion or otherwise, that, having regard to the location of such land, the purpose for which such land is being or is proposed to be used and such other relevant factors as the circumstances of the case may require, it is necessary or expedient in the public interest so to do, that Government may, by order, exempt, subject to such conditions, if any, as may be specified in the order, such vacant land from the provisions of this Chapter;

(b) where any person holds vacant land in excess of the ceiling limit and the State Government, either on its own motion or otherwise, is satisfied that the application of the provisions of this Chapter would cause undue hardship to such person, that Government may, by order, exempt, subject to such conditions, if any, as may be specified in the order, such vacant land from the provisions of this Chapter;

Provided that no order under this clause shall be made unless the reasons for doing so are recorded in writing.

(2) if at any time the State Government is satisfied that any of the conditions subject to which any exemption under clause (a) or clause (b) of sub-section (1) is granted is not complied with by any person, it shall be competent for the State Government to withdraw, by order, such exemption after giving a reasonable opportunity to such person for making a representation against the proposed

withdrawal and thereupon the provisions of this Chapter shall apply accordingly.

9. It is not in dispute that the exemption granted to the petitioner under G.O.Ms.No.253 dated 09.02.1983 was in terms of G.O.Ms.No.186 dated 02.03.1977 and in exercise of powers conferred on the Government by clause (b) of sub-section (1) of Section 20 of the ULC Act. The Government has issued G.O.Ms.No.186 dated 02.03.1977 for granting exemption to a person holding land in excess of ceiling limits, if the Government is satisfied that undue hardship would be caused to such person, who has entered into agreements with certain Housing Cooperative Societies, individuals etc., after taking considerable amounts as advance. One of the considerations for the Government to issue G.O.Ms.No.186 dated 02.03.1977 was to avoid hardship and civil litigation in recovery of amounts advanced, if transactions were not finalized. The Government has decided to grant exemption of such surplus land subject to such conditions if any as may be specified in the orders, if agreements have been entered into prior to 21.08.1976. It is not in dispute that the case of the petitioner was considered for exemption and on being satisfied that all the conditions stipulated in G.O.Ms.No.186 dated 02.03.1977 have been satisfied, the petitioner was granted exemption under G.O.Ms.No.253 dated 09.02.1983.

10. The point that arises for consideration in this writ petition is whether exemption was granted on the ground of hardship or on the ground of public interest.

11. The provision under Section 20(1)(b) of the ULC Act specifically deals with exemption on the ground of hardship. Further, under G.O.Ms.No.186 dated 02.03.1977, one of the pre-conditions for granting exemption was that there should be an agreement of sale in respect of the surplus land prior to 21.08.1976 and amount had been received as advance.

12. The relevant portion of G.O.Ms.No.186 dated 02.03.1977 is extracted hereunder:

> "According to clause (b) of sub-section (1) of Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976, where any person holds vacant land in excess of ceiling limit and the Government are satisfied that the application of the provisions of Chapter III of the said Act would cause undue hardship to such persons, the Government may be order, except, subject to such conditions, if any as may be specified in the orders, such vacant land from the provisions of Chapter III of the Act. A ... some persons have entered into agreements to sell their urban lands to certain Housing Cooperative Societies, individuals etc., after taking considerable amounts as advance and also obtained permission under the Andhra Pradesh Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972, to alienate the land but could not register the sale deeds as the Urban Land (Ceiling and Regulation) Act, 1976 came into force in the meanwhile. With a view to avoid hardship and civil litigation

in recovery of the amounts advanced if transactions are not finalised, many request have been made by the transferers as well as transferees that such land may be exempted from the provisions of Chapter III of the Urban Land (Ceiling and Regulation) Act, 1976 so that the sale deeds for the lands so transferred may be registered in favour of the transferees in accordance with the agreements already entered into.

2. ... The Government there lay down the following guidelines for dealing with such applications:

grant of exemption to surplus land holders may be considered for the sale of land to the registered Housing Cooperative Societies and individuals on the basis of agreements entered into prior to 28.01.1976 subject to the following conditions:

a ...
b ...
c ...
d..."

13. The application of Smt. Vanajakshi seeking exemption was enquired into by the Government by requisitioning a report from the Commissioner of Land Reforms and Urban Land Ceiling, Andhra Pradesh, Hyderabad. The Commissioner in his report dated 17.08.1982 has taken into consideration the fact that the declarant has entered into agreement of sale with the petitioner and received a sum of Rs.30,000/-. It was noted by the Commissioner that the petitioner was already in possession of the subject property and her husband, Dr. L. Narayan Reddy, is a specialist Doctor in Plastic

Surgery and desires to construct a hospital with all modern facilities. In para 2 of the report the Commissioner has concluded that the transaction (agreement of sale dated 22.08.1974) is a genuine one. The Commissioner recommended for grant of exemption to the declarant under G.O.Ms.No.186 dated 02.03.1977.

14. It is to be noted that the recommendation of the Commissioner vide report dated 17.08.1982 was the basis for issuing exemption under G.O.Ms.No.253 dated 09.02.1983. No doubt, reference was made even in the said report that the husband of the purchaser (petitioner herein) is desirous to construct a nursing home with all modern facilities. Such observation was made only to reach a conclusion that the agreement of sale was a genuine transaction. It was clearly pointed in the report that an amount of Rs.30,000/- towards sale consideration paid by the petitioner was remitted by the declarant for clearing income tax dues of her husband vide her application filed under Section 230(1)(a) of the Income Tax Act. It is also clear from G.O.Ms.No.253 dated 09.02.1983 that the Government has examined the case of the declarant and considered grant of exemption as the transaction falls under the guidelines of G.O.Ms.No.186 dated 02.03.1977. Thus, the contention of the learned Government Pleader for Assignment that exemption was

burdened with condition to construct a hospital and that exemption was granted in public interest is without any merit.

15. As pointed out above, reference was made regarding construction of nursing home with all modern facilities by the husband of the petitioner only for the purpose of recording that that transaction between the petitioner and the declarant under agreement of sale dated 22.08.1974 was genuine. The exemption granted under G.O.Ms.No.253 dated 09.02.1983 was in exercise of powers under Section 20(1)(b) of the ULC Act read with G.O.Ms.No.186 dated 02.03.1977 and falls under the category of hardship and not for public interest. No where it is mentioned in the G.O.Ms.No.253 dated 09.02.1983 that only for the reason that the petitioner and her husband intended to construct a hospital, such exemption was granted.

16. The Government, having consciously exercised its power under Section 20(1)(b) of the ULC Act read with G.O.Ms.No.186 dated 02.03.1977 is estopped from contending that exemption was granted only for the purpose of construction of a hospital. Even if exemption was granted under Section 20(1)(b) of the ULC Act, it can be with certain conditions. However, on reading of G.O.Ms.No.253 dated 09.02.1983, this Court is of the opinion that such conditions were not imposed, though it was mentioned that

exemption is granted to enable the petitioner to construct a hospital. Thus, impugned G.O. is illegal, unsustainable and liable to be set aside.

17. Another contention raised by the learned Government Pleader for Assignment is that D. Venkateswara Rao and Gurrala Suresh Chander have already sought for exemption in respect of certain extent of subject land. However, no record is placed before this Court. It is the contention of the petitioner that they have not sold the land to any person. The allotment of land to D. Venkateswara Rao and Gurrala Suresh Chander is not the issue involved in this writ petition. Learned senior counsel for the petitioner submitted that the petitioners were not put on notice and GO's, if any, issued in favour of the aforementioned persons is in violation of principles of natural justice. Be that as it may, it is a disputed question of fact as to whether the petitioner sold certain extent of land to D. Venkateswara Rao and Gurrala Suresh Chander. It is for the petitioner and D. Venkateswara Rao and Gurrala Suresh Chander to agitate their claim before the concerned civil Court, as the case may be, if there is any dispute regarding title and possession amongst them.

18. In view of the above observations, the writ petition is allowed setting aside G.O.Ms.No.944 Revenue (UC.II) Department dated

19.07.2006 and Letter No.11/9600/2005 dated 09.11.2006 issued by the District Collector, Hyderabad.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

**That Rule Nisi has been made absolute as above.**
**Witness the Hon'ble the Chief Justice UJJAL BHUYAN, on this Wednesday, the Eighteenth day of January, Two Thousand and Twenty Three.**

**SD/- MOHD. SANAULLAH ANSARI**
**ASSISTANT REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

**To**

1. The Principal Secretary, Government of Andhra Pradesh, Revenue Department Secretariat, Hyderabad.
2. The Special Officer and Competent, Authority, Urban Land Ceilings, Hyderabad.
3. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad. [OUT]
4. Two CCs to GP FOR LAND CEILING, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to SRI.SATHVIK MAKUNUR, Advocate [OPUC]
6. One CC to M/s.A.DEEPTHI, Advocate [OPUC]
7. Two CD Copies
8. One spare copy

**S.A**
**GJP**

HIGH COURT

DATED:18/01/2023



ORDER

WP.No.3402 of 2007

ALLOWING THE W.P

WITHOUT COSTS.

11

4/2/23