

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR

CONTEMPT CASE.No.2703 of 2017

ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. R.N.Hemendranath Reddy, learned Senior Counsel for the petitioner.

2. This petition has been filed under Sections 10 to 12 of the Contempt of Courts Act, 1971 alleging willful and deliberate violation of non-compliance to order of this Court dated 01.02.2011 passed in O.S.A.No.18 of 2010.

3. Order dated 01.02.2011 was passed in O.S.A.No.18 of 2010 and Cross Objection (SR) No.6396 of 2010 against Application No.420 of 2010 in Civil Suit No.14 of 1958.

4. We may mention that C.S.No.14 of 1958 has been instituted before this Court by Dildarunnisa Begum and another for partition of the suit schedule property

belonging to Nawab Khurshed Jah Paigah. It appears that a preliminary decree was drawn on 28.06.1963. Thereafter off and on applications were filed by various persons claiming a share to the suit schedule property either on account of being legal heirs of the parties to the suit or on account of subsequent purchasers who are strangers to the parties to the suit. In similar way, Application No.420 of 2010 was filed by the petitioner and two others. They claim to be assignees of defendant No.206 in C.S.No.14 of 1958 in respect of Ac. 116.00 of land and sought for a final decree. Learned Single Judge by detailed order dated 15.09.2010 rejected the said application and finally held as follows:

“Therefore, the application is dismissed, holding that the preliminary decree, dated 28.06.1963, in so far as it related to the properties in Item Nos.37 to 40 of Schedule IV and item Nos.1 to 14 of Schedule IV-A, is unenforceable being contrary to the A.P. (Telangana Area) Abolition of Jagirs Regulation and the judgment of the Supreme Court in **Sarwarlal’s** case (4 supra). It is however,

directed that in case the parties to the suit have derived any rights vis-à-vis the said properties independent of the preliminary decree, it shall be open to them to enforce and exercise the same. It is further held that a partial final decree cannot be passed in respect of some of the parties or their assignees in respect of a definite extent of land, unless an exercise to divide the same in accordance with the shares of all the parties is undertaken and that an application of this nature cannot be entertained in the absence of correct information as to the exact extent of the land that is available for partition.

The Registry is directed not to entertain any applications in this suit, for final decree in respect of the properties in the items referred to above.”

5. It was noticed by the learned Single Judge that a partial final decree cannot be passed for some of the parties or their assignees in respect of a definite extent of land unless an exercise to divide the same in accordance with the shares of all the parties is undertaken. Learned Single Judge further held that an application of this nature cannot be entertained in the absence of correct information

as to the exact extent of the land that is available for partition. Registry was directed not to entertain any application in the suit for final decree in respect of the properties in the items referred to in the said order.

6. This order of the learned Single Judge was assailed by the petitioner and the two others in O.S.A.No.18 of 2010. By the order dated 01.02.2011, the Division Bench allowed the appeal as well as Application No.420 of 2010 for passing final decree on compliance of due stamp duty.

7. We may mention that the aforesaid order dated 01.02.20211 was preceded by a memorandum of compromise entered into by the petitioners on the first part; M/s. Cyrus Investments Ltd. on the second part; and M/s. Goldstone Infratech Ltd. on the third part. It appears that on the basis of report filed by the then Receiver-cum-Commissioner, certain extent of land of the suit property was allotted to defendant Nos.157 and 206 in two equal halves. The two defendants sold their rights in favour of

M/s. Cyrus Investments Ltd. who then got impleaded as defendant No.206 in the suit. M/s. Cyrus Investments Ltd. had executed an unregistered assignment deed in favour of third party i.e., the petitioners which it is claimed has received approval of the Court.

8. Be that as it may, by way of an unregistered assignment deed, M/s. Cyrus Investments Ltd. had agreed to pass on its title to the petitioners. Following this, the appellate order came to be passed.

9. Mr. Hemendranath Reddy, learned Senior Counsel for the petitioners submits that the appellate order was assailed before the Supreme Court by the State by filing S.L.P(C).No.22420 of 2011 (**Jagir Administrator, Govt. of A.P. v. Burugupally Shiva Rama Krishna**). By order dated 26.11.2013, the SLP was dismissed.

10. We may mention that C.S.No.14 of 1958 is still pending for final closure. We have appointed a new Receiver-cum-Commissioner for submission of complete report, based on which we may pass final order(s) of

closure. When the civil suit itself is pending for final closure, we are of the view that no direction can be issued to any authority, be it revenue or registration for granting mutation or for effecting registration. That being the position, no case for contempt is made out.

11. Contempt Case is accordingly dismissed.

12. Miscellaneous applications pending, if any, in this Contempt Case shall stand closed.

UJJAL BHUYAN, CJ

N.V.SHRAVAN KUMAR, J

Date: 25.01.2023
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