

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

+ Writ Petition No.22672 of 2021

% 06.06.2024

Between:

GMR Hyderabad International Airport Limited
GMR Aero Towers, Rajiv Gandhi Intl. Airport
Shamshabad, Hyderabad & another.

Petitioners

Vs.

The State of Telangana,
Registration and Stamps Department,
Rep by Chief Secretary,
Secretariat Building, Hyderabad & others.

Respondents

! Counsel for Appellants : Mr.S.Niranjan Reddy

^ Counsel for Respondents : Government Pleader
for Stamps and Registration

<GIST:

> HEAD NOTE:

? Cases referred

1 (2022) 3 SCC 117

2 2022 (6) ALD 510

3 2023 SCC Online J&K

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

Writ Petition No. 22672 of 2021

ORDER:

This writ petition is filed under Article 226 of Constitution of India declaring the action of respondent No.2 in issuing the impugned notice dated 19.08.2021 calling upon the petitioners to pay a fine/penalty equivalent to five times of the Registration fee of the two deeds i.e., the Conveyance Deed and Sub-Lease deed dated 29.09.2020 within one month from the date of the notice, without affording the petitioners with a reasonable opportunity of hearing and without considering the request made by the petitioner to exclude the 92 days period of suspension of registrations imposed by respondent No.1, while calculating four months' period provided under the statute, as illegal, arbitrary, contrary to the principles of natural justice apart from being violative of the rights of the petitioner guaranteed under Article 19(1)(g), Article 14 and Article 21 and set aside the same and consequently direct respondent No.2 to consider the two deeds i.e., the conveyance deed and sub-lease deed dated 20.09.2020

presented by petitioners for registration on 12.03.2021 without insisting on payment of any penalty/fine.

2. The brief facts of the case are that the petitioner No.1 and petitioner No.2 are both represented by its CEO. Petitioner No.1 is a Company incorporated under the Companies Act, 1956 and is part of GMR Group which is leading global infrastructure with various projects in Airports, Energy, Transportation, Urban Infrastructure and in sports and is maintaining the World Class Greenfield International Airport by name Rajiv Gandhi International Airport, Hyderabad.

3. In the year 2003, a land lease agreement dated 30-09-2003 was executed by the State Government whereby land admeasuring about Ac.5500 has been given on lease by the State Government to the petitioner No.1 for the development of the airport and for other commercial departments for the socio economic growth of the region. Thereafter a Concession Agreement dated 20.12.2004, was executed with Government of India through the Ministry of Civil Aviation, with petitioner No.1 for designing, financing,

construction, operation and maintenance of the Airport at Shamshabad, Hyderabad.

4. It is submitted that the provision of Air Cargo Terminal Services is one of the concessions granted under the said agreement. In order to facilitate for providing the Air Cargo Services at Airport, petitioner No.1 constructed Air Cargo Terminal Building (ACT Building). Petitioner No.1 incorporated 2nd petitioner as its wholly owned subsidiary, for providing air cargo services including warehouse handling, build-up and breakdown ULDs, general supervision, tracing and irregularity, management, customs, interface etc., in an efficient manner. As a part of the business requirements, petitioner No.1 executed a conveyance deed dated 29.09.2020, whereby the aforementioned ACT Building was conveyed in favour of petitioner No.2 herein which is its wholly owned subsidiary. Petitioner No.1 also executed a separate sub-lease deed dated 29.09.2020, in respect of the above ACT Building Land with rights to grant sub-lease, sub-sub-lease etc.

5. It is submitted that as per Section 23 of the Registration Act, 1908 (for brevity 'the Act' hereinafter) all documents except a Will have to be presented for registration before the concerned Registrar or Sub-Registrar within four (4) months from the date of execution of such document. Further, Section 25 of the Act provides that due to any reasons mentioned therein, such executed document could not be presented within four (4) months but is presented after expiry of the said period, the same will be accepted for registration provided that upto 10 times of the amount of registration fee to be paid if the delay in presentation does not exceed four (4) months.

6. It is submitted that while so, the State Government *vide* G.O.Ms.No.102 dated 07.09.2020 by exercising its powers under Rule 5 of the Telangana Registration Rules under the Registration Act, 1908, declared holidays with effect from 08.09.2020 until further orders for all Registrar and Sub-Registrar offices in the State in respect of all registration services except three services *viz.*, registration of will deeds, administration of marriages and franking services. Admittedly this was done to bring in certain

changes in the property registrations in the related process and technical applications. It is further submitted that in October 2020, the Government of Telangana launched a web portal named 'Dharani' for registration of land and property transactions. However, due to confusions on the Dharani portal and inordinate delays, manual registrations resumed from 09.12.2020. As such, the registration of properties was suspended for a period of 92 days and resumed only on 09.12.2020.

7. It is further submitted that the petitioner has paid stamp duty and registration fee amounting a sum of Rs.1,18,41,238/- vide *e-challan* No.404WBQ100321, dated 10.03.2021 towards the conveyance deed and a sum of Rs.40,18,448/- vide *e-challan* No.904Z2P100321, dated 10.03.2021. Respondent No.2 on 12.03.2021 accepted the said two documents for registration and assigned pending document Nos.P-87/21 and P-81/21 on the same day. However, respondent No.2 thereafter did not take steps for registration of the said two documents.

8. In such a situation petitioner No.1 made a representation on 02.05.2021 to respondent No.3 and submitted that respondent No.1 by virtue of G.O.Ms.No.102, dated 07.09.2020 had stopped all the registrations until further orders as such the petitioners could not present the deeds for registration. Petitioners requested respondent No.3 to consider and waive the penalty by exercising powers under Section 69(1)(d) of the Act. The said representation was also marked to the Deputy Inspector General (Stamps and Registration), Hyderabad and the Sub-Registrar.

9. The petitioner further submits that as per Section 23 of the Act, four (4) months period would have ended on 28.01.2021 in normal circumstances. However, in view of the suspension of registrations by respondent No.1 from 07.09.2020 to 09.12.2020 (92 days), the statutorily available period of four (4) months would effectively lapse on 30.04.2021 and that respondent No.2 while considering the application for registration of deeds ought to have excluded the aforesaid 92 days period in terms of the Section 23 of the Act for the purpose of limitation. It is

further submitted that respondent No.2 accepted the challans evidencing payment of stamp duty and registration fees on 12.03.2021, which marks the 71st day from the date of execution (pursuant to exclusion of the 92 days suspension period) and the same is well within the four (4) months period provided under the Act. It is further submitted that there was no deliberate intention on the part of the petitioners, however on account of the decision to stop the said registration process and implementation of e-portal system and thereafter switching back to the old system has in fact created confusion in the minds of the general public. As a result of which, registration could not be completed.

10. It is further submitted that since, no response was received from the respondents till date, petitioner submitted another representation dated 11.08.2021 seeking reasons for not registering the said documents. However, the respondents *vide* impugned letter dated 19.08.2021 informed first petitioner that as the documents were presented after a period of four (4) months from the date of execution, the same is in violation of the Act and

that there was a delay of more than a month but less than two months for presentation of documents and the petitioner was asked to pay a penalty equivalent to five times of the Registration Fee for the two documents.

11. It is also submitted that due to COVID-19 outbreak, the Hon'ble Supreme Court extended the limitation period in respect of various matters and owing to the pandemic situation, the performance of even regular activities have become impossible and even after lockdown was lifted, most offices are functioning in a debilitated fashion with lesser staff rendering the functioning difficult. It is further submitted that the petitioners have received a letter No.G3/2/2021 dated 18.06.2021, wherein respondent No.3 communicated to the Chief Secretary to the Government, Revenue (Registration) Department that the issue in respect of presenting documents and proposals for waiver of fine imposed under Section 25 and 70 of the Act were being considered and thereafter noting the said communication which clearly indicates considering the request of the petitioners, the action of respondent No.2 in issuing the notice dated 19.08.2021 without granting an

opportunity to the petitioners in providing explanation, is being violative of principles of natural justice.

12. It is further submitted that respondent No.2 has acted in haste and utter ignorance of the fact that period of 92 days period was suspended for registrations *vide* G.O.Ms.No.102 dated 07.09.2020 which was imposed by respondent No.1 and such suspended period of 92 days ought to have considered for calculation in addition to the four months' period prescribed under Section 23 of Act and accordingly respondent No.2 should not have insisted the payment of any penalty. Questioning the same, the present writ petition is filed.

13. This Court on 27.09.2021 has passed the following order:

“Challenging the notice dated 19.08.2021 issued by respondent No.2 levying five times registration fee in respect of the two documents i.e., conveyance deed and sub-lease deed, which are numbered as P97/21 and P88/21, the present writ petition is filed.

Learned counsel for the petitioners has stated that the petitioners have already made an

application on 02.05.2021 to respondent No.3 – the Commissioner & Inspector General (Registration & Stamps), requesting him to waive the penalty, and respondent No.3, in turn, has addressed a letter to the Chief Secretary to Government on 18.06.2021. Learned Counsel has further stated that pending consideration of the said application, the official respondents may be directed to register and release the documents submitted by the petitioners and in the case, the application of the petitioners is rejected or the present with petition is dismissed, the petitioners undertake to pay the penalty as levied by respondent No.2 vide the impugned notice dated 19.08.2021”.

Recording the above undertaking given by the petitioners, the respondent No.2- Sub Registrar is directed to register and release the documents bearing Nos.87/2021 and 88/2021, as per the provisions of the Indian Registration Act, 1908, and Indian Stamps Act, 1899 and the Rules made there under. However, it is made clear that such registration and release shall be subject to the final orders likely to be passed in this writ petition and also the orders likely to be passed by the Government on the application of the petitioner dated 02.05.2021. It is also made clear that the petitioners shall not claim equities in case any adverse orders are passed against them.

Registry is directed to make an endorsement on the writ petition to the effect that the same shall not be permitted to be withdrawn.

14. Thereafter, the sub-registrar/respondent No.2 has filed counter affidavit on behalf of the respondents and would submit that the petitioner has submitted two documents styled as 'Deed of Conveyance' executed by petitioner No.1 in favour of petitioner No.2 dated 29.09.2020 for processing, the same for registration in accordance with the provisions of the Act. Thereafter, the documents were examined and assigned with pending Doc.Nos.P-87/2021 and P-88/2021 for the reason that the said documents were presented after four (4) months of execution and there was a delay of one (1) month but not exceeding two months which attracts Section 23 read with Section 25 of the Act and that since the petitioners have submitted the said documents beyond the limitation prescribed under the provisions of the Act and there was a direction to the petitioners to pay requisite fine which is equal to 5 times registration fees paid in the pending documents as calculated in terms of Rule 38 of the

Registration Rules and also instructed to submit approved plan to be issued by the competent authority for the structure being conveyed under the said documents and it was also clarified in the said notice that after complying with the above condition the document will be referred to the District Registrar for condonation of delay, classification and chargeability and if any additional stamp duty, registration fee, fine or transfer duty needs to be paid. The petitioner instead of complying the above said requirements, in a hasty manner, approached this Court questioning the notice issued by respondent dated 19.08.2021.

15. It is submitted that the Government has issued G.O.Ms.No.102, Revenue (Registration) Department dated 07.09.2020 giving effect from 08.09.2020 for undertaking technical updates of matters relating to registrations and processing the documents for the purpose of maintaining all the registered transactions in a transparent manner and easily accessible to the citizens, to update the computers, and declared holidays for a period of 92 days and that the Government has not given any orders regarding excluding

the number of holidays for the purpose of calculation of limitation as prescribed under Section 23 and 25 of the Act to enable the respondent to waive the penalty as prescribed under the provisions Act and in the absence of the orders issued by the competent authority, the petitioners are liable to pay penalty amount as prescribed under the Rules. That apart, the petitioner has not submitted the document for registration soon after resumption of registrations i.e., 14.02.2020 and the same are presented on 12.03.2021 i.e., almost all three (3) months later after the resumption of registration, as such, the petitioner was not entitled for condonation of delay and liable to pay fine which amounts to 5 times as per Rule 38 of the Rules and submitted that the respondent has rightly issued the impugned notice dated 19.08.2021 which does not suffer any legal infirmities warranting interference of this Court.

16. It is further submitted that Hon'ble Court has specifically directed the respondents to register and process the pending documents subject to the final orders likely to be passed by the Government on the application of the petitioner dated 02.05.2021. On verification of the

petitioners' pending documents, a clarification was sought for from the office of District Registrar, Ranga Reddy *vide* letter dated 20.10.2021 as to the nature and chargeability of the same. Thereafter, the District Registrar *vide* letter dated 01.12.2021 stated that the conveyance deed is chargeable as conveyance on sale. Thereafter, receiving such clarification, respondents have addressed a letter dated 15.12.2021 directed the petitioner to pay an amount of 1.5% transfer duty and 0.1% mutation charges on consideration of Rs.26,31,27,225/- with reference to pending document No.88/2021, and also directed the petitioners to pay differential stamp duty of Rs.55,600/- and registration fees of Rs.1000/-.

17. However, the petitioner has himself represented another representation for waiver of the fine amount and has filed the present writ petition. It is further submitted that the petitioner was liable to pay fine amount under Rule 38 of the Registration Rules. Even if the petitioners' representation is considered condoning the delay in presentation, still the petitioners are liable to pay transfer duty and mutation charges on both the documents as

shortfall and informed *vide* letter No.273 of 2021, dated 15.12.2021 and the petitioners instead of complying the same, are disputing the nature of documents and contents thereof and its chargeability, which requires to be examined under Article 47-A of Schedule 1-A of Indian Stamp Act, 1899 for determination of nature of the document, as such the present writ petition is not maintainable and the interim orders granted are liable to be vacated. Respondents filed I.A.No.2 of 2022 to vacate the interim order granted by this Court on 27.09.2021.

18. A rejoinder has been filed on behalf of petitioner Nos.1 and 2. While reiterating the submissions made in the writ petition and in the para wise reply, it is submitted that in pursuant to the reasonable relief being seen in the Covid-19 situation, on 12.03.2021, the petitioners presented the two deeds for registration and paid requisite registration fee and stamp duty as per law and as advised by respondent No.2 office, amounting to a sum of Rs.1,18,41,238/- *vide* e-challan No.405WBQ100321 dated 10.03.2021 as provided by respondent No.2 office towards conveyance deed and some of Rs.40,18,448/- *vide* e-

challan No.904Z2P100321 dated 10.03.2021 towards sub-lease deed. The said documents were accepted and were assigned P-87/21 and P-88/21. In spite of paying challans and documents being received, no steps were taken by the respondents for completion of registration of the said deeds.

19. The petitioner thereafter submitted representation on 02.05.2021 and 11.08.2021 to respondent No.2 and 3 to consider and waive the penalty by exercising his powers under Section 69(1)(d) of the Act and in view of the suspension of the Registration by the respondents for a period of 92 days, respondents ought to have considered and excluded the said 92 days period for the purpose of calculation of four months period mentioned under Section 23 of the Act and that the documents were presented for registration on 12.03.2021, which marks the 71st day from the date of execution (pursuant to execution of 92 days suspension period) and considering the same, it would be well within the four months period and that the demand for payment of penalty equivalent to five times of the registration fee on the said two deeds is arbitrary and

in the absence of any orders issued by respondent No.1 on the said issue and as such when no clarification was given, the petitioners were constrained to file the present writ petition.

SUBMISSIONS OF PETITIONERS:

20. Mr.S.Niranjan Reddy learned Senior Counsel appearing on behalf of the petitioners would submit that execution and registration of the documents was impacted on two grounds i.e., surge of Covid-19 virus across the Country on the public health and the suspension of Dharani Portal in terms of G.O.Ms.No.102 dated 07.09.2020. He would further submit that the Hon'ble Supreme Court has taken *suo motu* cognizance (Suo motu Writ Petition (C) No.3 of 2020) of the difficulties that might be faced by the litigants in filing petitions/applications/suits/appeals/all other quasi proceedings within the period of limitation prescribed under the general law of limitation or under any special laws (both Central and/or State) due to the outbreak of the Covid-19 pandemic. The Hon'ble Supreme Court *vide* orders dated 10.01.2022 in Miscellaneous Application

No.665 of 2021 in Suo Motu Writ Petition (C) No.3 of 2020 directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation. The relevant portion of the said order of the Hon'ble Supreme Court in ***In Re:Cognizance For Extension of Limitation***¹, is as follows:

“1.The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.”

21. Learned senior counsel would submit that the respondents ought to have excluded the 92 days period in terms of G.O.Ms.No.102 dated 07.09.2020 and also ought to have considered the orders of the Hon'ble Supreme Court in Suo Motu Writ Petition (C) No.3 of 2020 that the said period from 15.03.2020 to 28.02.2022 also has to be excluded for the purpose of limitation as per the provisions of the Act for receiving and registering the documents. He

¹ (2022) 3 SCC 117

would further submit that considering both the situations, the documents dated 29.09.2020 and the period in terms of above G.O.Ms.No.102 dated 07.09.2020 and the orders of the Hon'ble Supreme Court directing excluding the period from 15.03.2020 till 28.02.2022 for the purpose of limitation, the presentation of documents are within time and the provisions of Section 23 cannot be considered in such peculiar circumstances and the situation prevailed at that relevant point of time.

22. Learned Senior Counsel also relied on the order of this Court in the case of ***Tata Consumer Products Limited and another v. The State of Telangana***² in W.P.No.15986 of 2020. In the said writ petition, the issues were similar wherein the Country was placed under lockdown due to Covid-19 Pandemic and in terms of G.O.Ms.No.102 dated 07.09.2020 registration of immovable properties were stopped. The relevant portion of the said order is as under:

“11. The Hon'ble Apex Court vide its order dated 10.01.2022 in Miscellaneous Application No.2

² 2022 (6) ALD 510

of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ petition (C) No.3 of 2020 considering the impact of the surge of the virus on public health and adversities faced by the general public directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded from the purposes of limitation as may be prescribed under any general or special law in respect of all judicial or quasi judicial proceedings.

12. In the present case, after perusing the record, admittedly the effect of COVID-19 pandemic caused hardship to both the parties i.e. petitioners and the respondents and that the petitioners made representations from time to time and there is no negligence on the part of the petitioners. Even as per the record, the Challan is paid on 12.03.2020 within the prescribed period of four months from the date of execution of the subject lease deed dated 20.11.2019, which was accepted by the Registering Authority and thereby the registration date was initially scheduled on 09.03.2020 but due to declaration of holiday on the said day, thereafter the registration dates were rescheduled from time to time. Since the Challan was paid and registration dates were already scheduled from time to time no prejudice would be caused to the respondents if the registration is carried out. In view of the same, the petitioners' case is found to be sustainable.

13. Having regard to the facts and circumstances of the case and the submissions made by the learned counsel on either side and the

observations made in the order dated 01.10.2020 in W.P. No.313 of 2020 by this Court and the order dated 10.01.2022 passed by the Hon'ble Apex Court in Miscellaneous Application No.2 of 2022 in Miscellaneous Application No.665 of 2021 in Suo Motu Writ petition (C) No.3 of 2020, into consideration, I deem it appropriate to dispose of the writ petition with the following directions:

i) The respondents, particularly respondents No.3 and 4, before whom the aforesaid representations stated to have been made, are directed either to consider the representations dated 16.03.2020, 19.08.2020 and 08.09.2020 seeking extension of the validity of the registration of the subject lease agreement dated 20.11.2019, coupled with the provision of Sections 23 and 71 of the Act, and pass appropriate orders, in accordance with law, within a period of four weeks, from the date of receipt of a copy of this order, or

ii) To entertain the registration of subject lease deed dated 20.11.2019, if it is otherwise in order, duly extending the validity of the registration of subject lease deed and Challan bearing No.5149659836504, dated 12.03.2020.

iii) However, it will be open to the 4th respondent to refuse/receive the document presented before him, if he has any other objection, by duly assigning reasons in support of such decision and communicate the said decision to the petitioners.”

23. Further, learned Senior Counsel has also relied upon the Judgment of the High Court of Jammu and Kashmir and Ladakh in the case of **Wamiq Rasool Budoo and another Vs. UT of J&K**³, wherein it has been held as under:

“10. The Hon'ble Supreme Court by virtue of its order dated 23.03.2020 had issued direction that the limitation prescribed under general law or special laws whether condonable or not shall stand extended with effect from 15th March, 2020 till further orders. Thereafter the Hon'ble Supreme Court vide its order dated 08.03.2021 further directed that in cases where the limitation period expired between 15.03.2020 till 14.03.2021, all the persons shall have a limitation period of 90 days from 15.03.2021. Thereafter, the Hon'ble Supreme Court vide order dated 27.04.2021 directed that the period(s) of limitation as prescribed under any general law or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders. Thus, it is evident that on 22.04.2021, the directions issued by the Hon'ble Supreme Court vide orders dated 23.03.2020 and 08.03.2021 were in operation. Once the Hon'ble Supreme Court has issued general directions regarding extension of the limitation period, it was not open for the respondent No.3 to reject the

³ [2023 SCC Online J&K]

application seeking condonation of delay on the ground that no sufficient cause has been demonstrated by the petitioners for condoning the delay. Even no penalty can be imposed in terms of section 25 of the Act (supra) during the Covid-19 pandemic.

11. Accordingly, this writ petition is allowed, impugned order dated 11.06.2021 passed by the respondent No.3 is quashed and the respondent No.3 shall pass fresh orders in light of the directions issued by the Hon'ble Supreme Court and shall issue appropriate directions to the respondent No 4, with in the period of 15 days from the receipt of this order.”

SUBMISSIONS OF RESPONDENTS:

24. Learned Assistant Government Pleader appearing on behalf of respondents reiterated the submissions made in the counter affidavit filed by respondent No.2 and would submit that the respondents had rightly issued the notice dated 19.08.2021 demanding the petitioner to pay the penalty/fine on the said two conveyance deeds.

25. Heard learned counsel on both sides and perused the record.

ANALYSIS AND CONCLUSION:

26. The relevant dates and events to be considered for deciding the case are:

(i) G.O.Ms.No.102, Registration (Revenue) Department dated 07.09.2020 whereby registrations were stopped with effect from 08.09.2020.

(ii) The documents were executed by the petitioners on 29.09.2020.

(iii) As per the counter affidavit, registrations were resumed on 14.12.2020.

(iv) On 12.03.2021, challans are paid and documents were submitted.

(v) Orders passed by Hon'ble Supreme Court dated 10.01.2022 in Suo Motu Writ Petition (C) No.3 of 2020.

27. The Government vide G.O.Ms.No.102, dated 07.09.2020, by exercising its powers under Rule 5 of the Telangana Registration Rules under the Act, with a view to provide quality services to citizens for registration of property documents proposed to bring certain changes in the related process and technical applications and stopped registrations in the Registration and Stamps Department

and declared holidays with effect from 08.09.2020, for all Registrars and Sub-Registrar Offices in the State in respect of all registration services until further orders. It is also submitted that in the month of October, 2020, the Government of Telangana launched a Web Portal by name 'Dharani' and due to confusions on the Dharani portal and inordinate delays registration of properties were suspended for a period of 92 days and were resumed only from 14.12.2020 (as per counter affidavit filed by sub-registrar, Shamshabad). Thereafter, the petitioners presented the said two deeds i.e., the Conveyance Deed dated 29.09.2020 and the Sub-Lease dated 29.09.2020 for registration along with challans on 12.03.2021 before the concerned Sub-Registrar, Shamshabad and also paid requisite registration fee and stamp duty on the said two deeds.

28. For facility, it is relevant to extract Section 23 and Section 25 of the Act as well as Rule 38 of the Telangana Rules under Registration Act:

*“23. Time for presenting documents.—
Subject to the provisions contained in sections 24,
25 and 26, no document other than a will shall be*

accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy a of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

25. Provision where delay in presentation is unavoidable.—

(1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in 2 [India] is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

Rule 38: The fines for delays in presentation and appearance under Section 25 and 34 shall be regulated as follows: When the delay does not exceed one week A fine equal to the registration

fee. after the expiration of time allowed for presentation or appearance. When the delay exceeds one week but does not exceed one calendar month. When the delay exceeds one month but does not exceed two months. When the delay exceeds two months but does not exceed four months A fine equal to twice the registration fee A fine equal to twice the registration fee A fine equal to ten times the registration fee.

Explanations:—(1) The fine shall be levied in addition to the proper registration fee. (2) The term registration fee as used in this rule does not include the fee for copying documents and endorsements thereon or the fee payable for the registration under Section 33 or for filing a translation under Section 19 or fee for copies and Memoranda of attendance at a private residence or for the registration of a duplicate or triplicate.

29. In the case on hand, the documents were executed on 29.09.2020 when the G.O.Ms.No.102, Revenue (Registration) Department dated 07.09.2020 was in force. In the said Government Order, which was issued for providing quality services to citizens for registration of property documents, it is stated that there was a need to stop registrations till further orders are passed and as per

the powers vested under Rule 5 of the Telangana Registration Rules, holidays were declared with effect from 08.09.2020 until further orders for all Registrar and Sub-Registrar Offices in the State in respect of all registration services under the Act. However, registration of will deeds, administration of marriages and franking services continued as usual.

30. As stated in the counter affidavit of respondent No.2, registrations were resumed on 14.12.2020 i.e., after 96 days period (from 08.09.2020 to 14.12.2020). Considering the date of (2) documents which were executed on 29.09.2020 the limitation of four (4) months as prescribed under Section 23, the period would expire on 29.01.2021. It is pertinent to note that the documents were executed on 29.09.2020 i.e., during the said declared holidays period. In the counter affidavit, the Sub-Registrar submits that Government has not given any orders regarding the exclusion of number of holidays for the purpose of calculation of limitation under Section 23 read with Section 25 of the Act. There is no force in such submission for the reason that in a situation if the said

period which was declared with effect from 08.09.2020 goes beyond four (4) months period, and if any documents are executed in such period, no citizen could have registered any documents pertaining to immovable properties which were executed from 08.09.2020 onwards and such orders of suspension of registration in terms of G.O.Ms.No.102 dated 07.09.2020 would contravene the provisions of Section 23 of the Act.

31. Since the Government has issued G.O.Ms.No.102 Revenue (Registration) Department dated 07.09.2020 for implementing the Dharani Portal, declaring holidays with effect from 08.09.2020 until further orders, it is the very action of the Government that stopped registration for the said period. As such the respondents cannot apply the period prescribed under Section 23 of the Act (i.e., four (4) months) for their own action and the said period of holidays have to be considered and excluded to meet the period prescribed under Section 23 of the Act. Moreover, respondent No.3 *vide* letter dated 18.06.2021 addressed to the Chief Secretary to Government, Revenue (Registration) Department, Secretariat, Hyderabad, Telangana requested

to give necessary orders for proposals for exemption of penalty collected under Section 25. Pending the proposals, the impugned proceeding was issued by respondent No.2 based on the clarification sought from the District Registrar *vide* Memo dated 01.12.2021 which is totally misconceived. The District Registrar had only clarified regarding charging of conveyance deed, lease deed and calculation of average annual rent and there was no reference to G.O.Ms.No.102 dated 07.09.2020.

32. Earlier this Court in W.P.No.313 of 2020 dated 01.10.2020, dealt with the aspect of limitation period and held at para 10 as under:

“..... Since there is no period of limitation to register the document, once it was presented before the authority concerned within four(4) months after its execution and when it was accepted for registration, registering the document at a later stage i.e, on 31.08.2019 (after lapse of 22 years), cannot be faulted.”

33. That apart, the Hon’ble Supreme Court in its order dated 10.01.2022 has also considered the outbreak

of Covid-19 pandemic and its impact on public health and in the peculiar facts and circumstances, had directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation in respect of all judicial and quasi judicial proceedings.

34. In the letter dated 18.06.2021 addressed by respondent No.3 to the Chief Secretary to the Government, the representation of petitioner No.1 dated 02.05.2020 was also referred. In the said letter dated 18.06.2021, proposals were submitted requesting exemption of penalty collected under Section 25 and Section 70 of the Act for the period of registration holidays on documents and the said letter was issued in the form of reminder for issuing necessary orders. It is pertinent to note that since the proposal is for waiver of fine under Section 25 and Section 70 of the Act, such benefit ought to have been also extended for the documents executed in terms of G.O.Ms.No.102 dated 07.09.2020. It is also pertinent to note that in the counter filed by respondent No.2 there is no reference to the said letter dated 18.06.2021 which is still pending for consideration. The Sub-Registrar is totally misconceived on

the clarification issued by District Registrar *vide* Memo dated 01.12.2021. As such the impugned letter dated 19.08.2021 is devoid of merits and is not sustainable.

35. In view of all the aforementioned facts and circumstances of the case and in the light of the directions issued by the Hon'ble Supreme Court dated 10.01.2022 in *Suo Motu* Writ Petition (C) No.3 of 2020 that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation in respect of all judicial and quasi-judicial proceedings and in terms of the orders issued in G.O.Ms.No.102 dated 07.09.2020, and also referring to the observations made in the order dated 01.10.2020 in W.P.No.313 of 2020, the order dated 10.06.2022 in W.P.No.15986 of 2020 and the interim order of this Court dated 27.09.2021, more so when the request for exemption of penalty *vide* letter dated 18.06.2021 is pending before the Chief Secretary to Government and pending representations of the petitioner dated 02.05.2021 and 11.08.2021, this Court is of the view that demanding penalty from the petitioner is arbitrary and illegal as such the impugned letter dated 19.08.2021 is unsustainable

and is hereby quashed and the writ petition is allowed. Respondents are directed to consider the letter issued by respondent No.3 to the Chief Secretary to Government dated 18.06.2022 and the representations of the petitioners dated 02.05.2021 and 11.08.2021 by taking into consideration all the above mentioned aspects and shall pass fresh orders within a period of two (2) months from the date of receipt of a copy of this order with respect to pending documents i.e., P-87/21 and P-88/21 dated 12.03.2021 in accordance to the provisions of the Registration Act, 1908 and Indian Stamp Act, 1899 and communicate the said decision to the petitioners.

36. With the above directions, writ petition is allowed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

N.V.SHRAVAN KUMAR, J

06.06.2024
L.R.Copy to be marked.
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