

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION No.13183 OF 2023

BETWEEN

M/s.Synycs Sabu LLP., Identification No.AAY-0049,
Having its registered office at Plot Nos.1 to 9,
Khajaguda, Hyderabad, rep. by its designated partner
G.Sathwasta, S/o.G.Srinivasulu.

... Petitioner

And

State of Telangana,
Registration & Stamps Department,
Rep. by its Secretary, Telangana Secretariat,
Hyderabad & 4 others.

... Respondents

Date of Judgment Pronounced: **13.07.2023**

SUBMITTED FOR APPROVAL:

THE HONOURABLE Dr. JUSTICE CHILLAKUR SUMALATHA

1. Whether Reporters of Local newspapers may (Yes/No)
be allowed to see the Judgments?
2. Whether the copies of judgment may be (Yes/No)
marked to Law Reports/Journals?
3. Whether their Lordship/ Ladyship wish to (Yes/No)
see the fair copy of the Judgment?

Dr. JUSTICE CHILLAKUR SUMALATHA

*** THE HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**

+ WRIT PETITION No.13183 OF 2023

% Dated 13-07-2023

M/s.Synycs Sabu LLP., Identification No.AAY-0049,
Having its registered office at Plot Nos.1 to 9,
Khajaguda, Hyderabad, rep. by its designated partner
G.Sathwasta, S/o.G.Srinivasulu.

... Petitioner

\$ State of Telangana,
Registration & Stamps Department,
Rep. by its Secretary,Telangana Secretariat,
Hyderabad & 4 others.

... Respondents

! Counsel for Petitioner: 1.Sri E.Madan Mohan Rao,
Senior Counsel
2. Sri M.Srinivas^ Counsel for Respondent Nos.1 to 3: Sri B.Dileep Kumar
Counsel for Respondent No.4 : Sri S.Sridhar
Counsel for Respondent No.5 : Sri Srinivas Velagapudi

<GIST:

> HEAD NOTE:

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**WRIT PETITION No.13183 of 2023****ORDER:**

1. This Writ Petition is filed seeking an order, more particularly, in the nature of *Writ of Mandamus* declaring the Refusal Order vide Order No.81/2023/RO(OB), dated 25.04.2023, passed by the 2nd respondent as illegal and arbitrary and consequently to set-aside the same and direct the 2nd respondent to receive and register the Sale Deed that was executed in favour of the petitioner.

2. Heard Sri E.Madan Mohan Rao, learned Senior counsel who argued on behalf of Sri M.Srinivas, learned counsel on record for the petitioner, Sri B.Dileep Kumar, learned Assistant Government Pleader for Stamps and Registration, who is representing Respondent Nos.1 to 3, Sri S.Sridhar, learned counsel appearing for Respondent No.4 and Sri Srinivas Velagapudi, learned counsel appearing for Respondent No.5.

3. Stating that the basis for refusal to register the Sale deed is unlawful and without any basis, learned Senior

counsel appearing for the petitioner contended that the subject property i.e., the land admeasuring Ac.3.13 guntas which is equivalent to 16,093 Sq.yards, which is located in Sy.No.87/2 of Kondapur Village, Serilingampally Mandal, is declared as surplus land and a Panchanama was also conducted. Learned counsel states that the vendors of the petitioner, thus, have got valid right and title over the subject property. Learned counsel states that the vendors of the petitioner intended to sell the said property and the petitioner agreed to purchase. A Sale deed was executed to that effect and it was presented for registration. But the said document was kept pending. Learned counsel submits that the petitioner, thereafter, filed a Writ Petition vide W.P.No. 12810 of 2023 and at the time of hearing of the said Writ Petition, learned Assistant Government Pleader for Stamps and Registration informed the Court that the document has been refused and therefore, the petitioner withdrew the said Writ Petition as it became infructuous.

4. Learned counsel states that the reasons assigned in the impugned order of refusal are false and have no basis. The Registering Authority, without following the procedure under

the Registration Act, without verifying the Urban Land Ceiling proceedings, has passed such an order and therefore, the same is unjustifiable. Learned counsel also states that the power granted to the Registering Authority to refuse registration is only on limited grounds and the Registering Authority exceeded the power granted and refused to register the document and therefore, challenging the order of refusal, the present Writ Petition is filed. Learned counsel, thereby, seeks to order the Registering Authority to receive the subject document, register and release the same.

5. The submission made by the learned Assistant Government Pleader for Stamps and Registration is that in respect of the land in Sy.Nos.78, 80 to 93, Surplus land area and Retainable land area were notified. The land to an extent of Ac.12.00 guntas in Sy.No.87 fell under Retainable land area from out of the total extent of Ac.20.29 guntas and accordingly, sub-division sketch was prepared and retainable area in Sy.No.87 was earmarked. The Sub-division was made as Sy.No.87/2 in an extent of 48,562 Sq.mts. and the surplus land area was taken over by the Government. The declarants were granted absolute rights over the retainable land of

Ac.12.00 guntas in Sy.No.87/2 of Kondapur Village. Learned Assistant Government Pleader for Stamps and Registration states that on verification of records, it was found that an extent of Ac.10.23 guntas was already alienated by the legal heirs of Chintala Pochaiah. Learned Assistant Government Pleader contends that the Registering Authority has verified all the relevant documents and passed a reasoned order by which the document was refused for registration and thus, the present Writ petition is not maintainable.

6. The submission of Sri S.Sridhar, learned counsel appearing for Respondent No.4, is that the alleged vendors of the petitioner have already sold large extent of the subject property and thus, they have extinguished their rights and title over the subject property and thus they cannot sell the property to the petitioner.

7. The submission made by the learned counsel appearing for Respondent No.6 is that Respondent No.6 purchased Ac.0.32 guntas of land in Sy.No.87 under registered sale deed and the name of Respondent No.6 is mutated in all revenue records. Learned counsel also states that the vendors of the

petitioner alienated Ac.19.12 guntas of land out of the total extent of Ac.20.29 guntas in Sy.No.87 of Kondapur Village and thus, the sale deed presented has no basis. Learned counsel also contends that a suit was filed before the Court in respect of the subject property and an order of injunction stands in favour of Respondent No.6 and others and therefore, the petitioner cannot seek for registration of the sale deed.

8. Having considered the submissions made above, the point that falls for consideration is,

Whether the refusal order vide Refusal Order No.81/2023/RO(OB), dated 25.04.2023, is valid in the eye of law?

9. When the refusal order, which is assailed by the petitioner, is gone through, this Court finds that the Registering Authority has refused to entertain and register the sale deed on three grounds which are as under:-

“1. That the Commissioner and Inspector General (R&S) Dept.Memo No.G3/3247/2018, dated 01.05.2019 has instructed that whenever huge lands are showing in Sq.yards and sought to registration, the Sub-Registrar shall

invariably refer web land (Dharani) and find out the real owners as per revenue records and insist upon conversion certificate of agricultural land into non-agricultural land issued by the competent authority.

2. *The parties in the document claiming the schedule property as under part and parcel of retainable land as per Lr.No.H/205/1/2022, dated 26.09.2022, 30.01.2023 issued by Special Deputy Collector, Urban Land Ceiling Wing Ranga Reddy but failed to produce any evidence or Survey report showing their land falls under retainable land.*

3. *In the document page No.19 of schedule of the property there is an erasure which was not attested by the executants hence refused registration as per Section 20 of Registration Act read with Registration Rule No.161 (II)."*

10. Thus, this Court has to deal only with regard to the aforementioned three grounds to hold whether the order of refusal is valid or not. However, as the other grounds are also urged incidentally, this Court has to answer those points also. Basing on Memo No.G3/3247/2018, dated 01.05.2019, the Registering Authority failed to entertain the sale deed. As per the said memo, whenever huge lands are shown in square yard basis and were sought for registration, the Registering Authority shall refer the web land and verify about the nature of the property.

11. It is not the case of the Registering Authority that the subject property is an agricultural land. Only when the Registering Authority entertains the doubt whether the subject property is an agricultural land or non-agricultural land, the Registering Authority would insist upon production of the conversion certificate of agricultural land into non-agricultural land that is issued by the competent authority.

12. In the case on hand, it is the case of no one that the subject property is an agricultural land. Also, there is no denial of the fact that regarding the same subject property, there were earlier registrations. Therefore, such an objection holds no water.

13. Coming to the second objection, the contention of the Registering Authority is that the petitioner failed to produce any evidence or survey report showing that the subject land falls under retainable land. In this regard, learned counsel placed reliance upon the letter addressed by the Special Deputy Collector, Urban Land Ceiling, Ranga Reddy District, to the Deputy Collector and Tahsildar, Serilingampally Mandal, wherein and whereby it is clearly mentioned that the

land in Sy.No.87/2 to an extent of 48,562 Sq.mts. of Kondapur Village is shown as Retainable land. Thus, when the public document itself speaks the said fact, producing any further evidence is not required.

14. Coming to the third objection regarding the erasure at Page 19 of the schedule of property, learned counsel for the petitioner states that there is no such erasure at Page no.19. The copy of the document produced also does not indicate such an erasure. None of the respondents had brought to the notice of this Court that there exists such an erasure. Therefore, the said ground cannot be considered.

15. Now, coming to the objection taken by Sri Srinivas Velagapudi, learned counsel appearing for Respondent No.6, who stated that a suit in O.S.No.1011 of 2022 was filed before the Court of Principal Junior Civil Judge, Ranga Reddy District, for perpetual injunction and in the said suit, an ad-interim injunction was granted in favour of the petitioners therein and thus, the Registering Authority cannot proceed with the registration. However, when the order that is rendered by the Court of Principal Junior Civil Judge,

Kukatpally in I.A.No.675 of 2022 in O.S.No.1011 of 2022 is looked into, this Court finds that the said Interlocutory Application was filed seeking the Court to grant an order of injunction restraining the respondents therein and their men from interfering with the possession and enjoyment of the petitioners over the subject property i.e., Ac.6.39 guntas of land in Sy.Nos.87 Part and 97 Part of Kondapur village of Serilingampally Mandal. The Court accordingly granted order restraining the respondents and their men from interfering with the possession and enjoyment of the petition schedule property. An order of granting injunction regarding possession and enjoyment is quite different from an order restraining the opposite party from alienating the subject property. The Court did not grant an order of injunction restraining any parties from alienating the subject property. Apart from the order that is referred supra, no other order is placed before this Court in that regard. Even the order relied upon does not prohibit alienation.

16. Limited power is granted to the Registering Authority to refuse registration under the provisions of the Registration

Act, 1908. Registration can be refused mainly basing on the following grounds:-

1. *Where the document is written in a language which the Registering Officer does not understand (Section 19)*
2. *Where the document contains unattested interlineations, blanks, erasures or alterations which in the opinion of the Registering Officer require to be attested (Section 20)*
3. *Where the description of the property is insufficient to identify it or does not contain the information required by Rule 20 (Sections 21(1) to (3) & Section 22)*
4. *Where the document is unaccompanied by a copy or copies of any map or plan which it contains [Section 21(4)]*
5. *Where the date of execution is not stated or where the correct date cannot be ascertained (Section 36)*
6. *Where the document is presented after prescribed time. (Sections 23, 24, 25, 26, 72, 75 & 77)*
7. *Where the document is presented by a person who has no right to present it. (Sections 32, 33, 40 & 43)*
8. *Where the executing parties or their representatives, assigns or agents have failed to appear within the prescribed time (Section 34)*
9. *Where the Registering officer is not satisfied as to the identity of a person appearing before him who alleges that he executed the document (Sections 34 & 43)*

10. *Where the Registering Officer is not satisfied as to the right of the person appearing as a representative, assign or agent so to appear (Sections 34 & 40)*
11. *Where the execution is denied by any person purporting to be an executing party or by his agent (Section 35)*
12. *Where the person purporting to have executed the document is a minor, an idiot or a lunatic (Section 35)*
13. *Where the execution is denied by the representatives or assignee of a deceased person by whom document purports to have been executed (Section 35)*
14. *Where the alleged death of a person by whom the document purports to have been executed has not been proved (Sections 35 to 41)*
15. *Where the Registering Officer is not satisfied as to the fact of execution in case of will or of any authority to adopt presented after the death of the testator or donor (Section 41)*
16. *Where the prescribed fee or fine has not been paid. (Sections 25, 34 and 80)*
17. *Where the document is of such nature whose registration is prohibited under Section 22-A of the Registration Act, 1908.*

17. In case the document falls under any one or more of the aforementioned categories, the Registrar, who entertained the said document, has to pass an order of refusal and enter the

same in Book No.2 and enter the words “Registration Refused” on the document. If an application is made by a person executing or claiming under the document, then the Registrar has to give him a copy of the reason so recorded forthwith. Rules 161 to 164 of the Telangana Rules under the Registration Act, 1908 also envisage the same.

18. In the case on hand, the grounds urged for refusal as earlier indicated, are not valid. Though the unofficial respondents claimed title over the subject property, the said point do not form basis for the Registering Authority to pass the impugned order. Therefore, this Court is of the view that the impugned order of refusal is liable to be set-aside.

19. Resultantly, the Writ Petition is allowed. The order of refusal vide Order No.81/2023/RO(OB), dated 25.04.2023, passed by the 2nd respondent, is set-aside. Registering Authority is directed to receive, register and release the sale deed, if any, presented by the petitioner in respect of Ac.3.13 guntas of land in Sy.No.87/2 which is equivalent to 16,093 Sq.yards located at Kondapur Village, Serilingampally Mandal. However, the registration shall be subject to the

provisions of the Registration Act, 1908 and the Indian Stamp Act, 1899 and also on verification of all the link documents that are required to be produced by the petitioner while submitting the subject document for registration. In the light of the rival claims projected by the respondents 5 & 6, the registration shall not invalidate any of the registered deeds which stands in favour of Respondent Nos.5 & 6. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Dt.13.07.2023

Note: LR copy to be marked
ysk

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

WRIT PETITION No.13183 of 2023

Dt.13.07.2023

ysk