

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.25003 OF 2023

Between:

KSR Infrastructure Projects

... Petitioner

And

The Union of India & others

... Respondents

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

- 1. Whether Reporters of Local newspapers may be allowed to see the Judgment? : Yes**
- 2. Whether the copies of judgment may be marked to Law Reporters/Journals? : Yes**
- 3. Whether Their Lordships wish to see the fair copy of the Judgment? : Yes**

SUREPALLI NANDA, J

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P.No.25003 OF 2023****% 03.06.2024****Between:**

KSR Infrastructure Projects

... **Petitioner****And**

\$ The Union of India & others

... **Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioner : Ms.B.Aruna**^ Counsel for Respondents** :Smt.Kavita Yadav for R1 and R2
Mr. Srinivas Chitturu for R3 to R7.

? Cases Referred:

- (1) (2021) 6 SCC 771
- (2) (2021) SCC Online SC page 801

HON'BLE MRS. JUSTICE SUREPALLI NANDA**WRIT PETITION No.25003 OF 2023****ORDER:**

Heard Ms. B.Aruna, learned Counsel for the Petitioner appearing on behalf of Petitioner, Smt. Kavitha Yadav, learned Central Government Counsel appearing on behalf of Respondent Nos.1 and 2 and Mr. Srinivas Chitturu, learned Standing Counsel appearing on behalf of Respondent Nos.3 to 7.

2. The petitioner approached the Court seeking prayer as under:

".....to issue a Writ of Mandamus, declaring the action of the Respondent No. 4, 5, 6 and 7 of not releasing excess securities over and above the sanctioned requirement of security coverage as causing impediment to the Petitioner in exercising their lawful right to conduct business under Article 19(1)(g) and in creating impediment in exercising their lawful right to alienate their property under Article 300A as bad arbitrary illegal and in violation of Article 19(1)(g) and 300 A of Constitution of India and consequently direct the Respondent Bank to accept the Petitioner's proposal for release of excess securities dt. 24.07.2023, and pass such further order or orders..."

3. PERUSED THE RECORD

a) This Court vide its order dated 13.09.2023 passed in W.P.No.25003 of 2023 observed as under :

Heard the learned counsel for the petitioner.

Learned counsel for the petitioner approached this Court seeking prayer as under:

"to issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of respondent Nos.4, 5, 6 and 7 of not releasing excess securities over and above the sanctioned requirement of security coverage as causing impediment to the petitioner in exercising their lawful right to conduct business under Article 19(1)(g) and in creating impediment in exercising their lawful right to alienate their property under Article 300-A as bad, arbitrary, illegal and in violation of Article 19(1)(g) and 300-A of Constitution of India and consequently, direct the respondent Bank to accept the Petitioner's proposal for release of excess securities dated 24.07.2023."

It is the specific case of the petitioner that the petitioner vide her detailed representation dated 04.08.2023 addressed to the Branch Manager Baroda, Warangal requested for return of properties by Fifteenth of August so as to meet petitioner's monetary needs by selling the property as requested by the petitioner in petitioner's representation dated 24.07.2023. The request of the petitioner vide representation dated 24.07.2023 pertained to return of properties excess over the

sanctioned security coverage ratio. Petitioner vide the said representation gave certain property details and requested to return the said properties excess over the value of Rs.654.00 lakhs. The respondent is directed to consider petitioner's representation dated 04.08.2023 and 24.07.2023 within a period of two weeks from the date of receipt of the copy of the order, and pass appropriate orders duly communicating the decision to the petitioner. List on 03.10.2023.

b) The proceeding BOB/WARANG/ADV/2023-2024, dated 11.10.2023 addressed to the Petitioner by Senior Branch Manager, Warangal Branch, in pursuance to the interim orders of this Court dt. 13.09.2023 passed in W.P.No.25003/2023 reads as under :

Your representation dt. 24.07.2023 and 04.08.2023 for release of the securities has been considered by the sanctioning authority in the background of order of Hon'ble High Court of Telangana in W.P.No.25003/2023.

The sanctioning authority has taken a decision based on Bank's policies and commercial aspect of the account and decided that the securities cannot be released as requested in your representation.

4. The case of the Petitioner as per the averments made by the petitioner in the affidavit filed by the

petitioner in support of the present Writ Petition, in brief, are as follows:

a) The father of the petitioner, Mr K Sanjeeva Reddy started a sole proprietorship firm named KSR infrastructure projects in Hanamkonda, and opened an account with the 4th respondent bank in the year 1993. The petitioner's account limit was 40 lakhs rupees for overdraft and Rs.1.8 Crore for bank guarantee, and in return the petitioner provided the required security coverage of Rs.2.22 crore and thus the petitioners account had a security draft ratio of 1:1:21. Thereafter petitioner firm was converted from sole proprietor into a partnership firm in 2012.

b) The petitioner firm sent a proposal for enhancement of bank guarantee to Rs. 3.5 Crore and overdraft limit to Rs.1.5 Crore and term loan of Rs. 1.5 Crore and also requested the 4th respondent to temporarily return two (2) properties owned by relatives, who had guaranteed his properties, for the transfer of title, as the founder of the firm had purchased the same from the said relative, and also requested the bank to permanently return/release the two other properties belonging to the sister of the managing partner Mr.K.Ravinder Reddy, as value of the other properties was adequately covering the security ratio.

c) The Respondent Bank approved the Petitioner's proposal for enhancement but had rejected the request for term loan, consequently, the security required as per the previous ratio of 1:1.21 would be Rs. 5.2 crores whereas the Respondent Bank retained security of Rs. 6.66 crores thereby increasing the security coverage ratio to 1:1.54.

d) The respondent bank had induced the petitioner's managing Partner to execute registered Mortgage Deed bearing Document No. 2634/14 dated 19.05.2014 for existing securities and all properties save for the permanently released two properties (owned by Smt. V. Vasantha) and the two properties permitted for temporary release for changing the title (owned by Mr. G. Anantha Reddy), were mortgaged.

e) Due to delay in transfer of the title of the temporarily released properties, the petitioner had to mortgage one of the properties which were earlier permitted for permanent release. The 4th respondent made the petitioner execute two registered documents whereby new properties were added.

f) Thereafter, during Covid, the 4th respondent induced the petitioner to enter into a deed for "Extension of mortgage by deposit of title deeds" for availing the benefit of Covid-19 BCECL

Scheme, whereby all the existing mortgages were extended for the amount of Rs. 13,00,000/- advanced. The 4th respondent issued an annual report after revaluation of the securities which amounted to Rs.6,65,93,000/- and the security coverage ratio was 1:1:54.

g) Thereafter, the petitioner sought for release of all excess securities from the 4th respondent but to no avail. The petitioner was then constrained to escalate the matter to the 6th respondent and got the valuation report of the four properties which totalled to Rs. 10,92,07,000/-. Thereafter, the petitioner gave multiple representations to the fourth respondent to release all the excess properties after valuation was done.

h) Due to repeated inaction, the petitioner placed the matter before the 6th respondent and also sent copies of the petitioner's representation dated 13.03.2023 to the 4th and 5th respondents. The 4th respondent replied to the petitioner stating that the review for release of properties is in process. In contrary, the 6th respondent also replied in the same lines stating that the review for release of properties is in process and after the receipt of the documents, RO will consider the proposal.

i) Subsequently, the petitioner gave other representations dated 24.07.2023 and 04.08.2023 to the 4th respondent to release seven (07) properties valued at Rs. 09,39,93,550/-. As per the latest valuation report and offer to keep the remaining three properties which were valued at Rs. 6,83,20,000/-. Aggrieved by the inaction of the 4th respondent in not releasing the excess securities, the present writ petition is filed.

DISCUSSION AND CONCLUSION

5. It is brought to the notice of the Court that in pursuance to the interim orders of this Court, dated 13.09.2023, the request of the Petitioner for consideration of Petitioner's representation, dated 24.07.2023 and 04.08.2023 for release of securities had been considered by the sanctioning authority and the sanctioning authority had taken a decision based on Bank's policies and commercial aspect of the account and decided that the securities cannot be released as requested in Petitioner's representations.

6. A bare perusal of the letter dated 11.10.2023 (referred to and extracted above) issued to the

petitioner in pursuance to the interim orders of this Court dated 13.09.2023 does not indicate any single reason for negating Petitioner's request except stating that the securities cannot be released as requested in Petitioner's representation based on banks policies and commercial aspect of the account.

7. This Court opines that the Respondent Nos.4 to 7 being functionaries of the State are duty bound to act promptly since the request of the Petitioner pertains to release of excess securities/properties which are above the required sanctioned security coverage ratio. It is the specific case of the Petitioner that the Petitioner is in the dire need of the excess properties mortgaged with the bank and in view of the genuine request of the Petitioner for smooth conduct of Petitioner's affairs/business, the Respondent No.4 has to consider Petitioner's request for release of excess properties as requested in Petitioner's letter dated 24.07.2023 in accordance to law.

8. This Court taking into consideration the specific averments made by the Petitioner in the affidavit filed in support of the present writ petition opines that the Petitioner cannot be driven again to litigation and put to hardship to challenge the letter dated 11.10.2023 issued by the Senior Branch Manager, Warangal Branch, for the purpose of obtaining the relief as prayed for in the present writ petition.

9. The Division Bench of the Apex Court in a judgment dated 20.04.2021 reported in (2021) 6 SCC 771 in M/s. Radhakrishnan Industries Vs. State of Himachal Pradesh, referred to Whirlpool Corporation Vs. Registrar of Trade Marks (reported in (1998) 8 SCC 1) and further the said view had been reiterated by a Full Bench of the Apex Court (3 Judges) in a judgment reported in (2021) SCC Online SC page 801 in Magadh Sugar and Energy Limited Vs. State of Bihar and Others dated 24.09.2021 and in the said judgment it is observed that the principle of law that emerges is that *the power under Article 226 of the Constitution to issue writs can be exercised not only for*

the enforcement of fundamental rights, but for any other purpose as well.

10. Taking into consideration the above said facts and circumstances of the case and the contents of the letter dated 11.10.2023 issued by the Senior Branch Manager, Warangal Branch, vide BOB/WARANG/ADV/2023-2024, which admittedly as borne on record is bereft of reasons, and the view of the Apex Court in the Judgments referred to above, the Writ Petition is disposed of directing Respondent Nos.4, 5, 6 and 7, to reconsider Petitioner's proposal for release of excess securities as requested by the Petitioner vide letter dated 24.07.2023 within a period of four (04) weeks from the date of receipt of the copy of the order in accordance to law in conformity with principles of natural justice and pass appropriate reasoned order and duly communicate the decision to the Petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition,
shall stand closed.

SUREPALLI NANDA,J

Date: 03.06.2024

Note : L.R. Copy to be marked.
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