

THE HONOURABLE SRI JUSTICE N.V.SHRAVAN KUMAR

WRIT PETITION No.14186 of 2024

ORDER:

This writ petition is filed seeking the following prayer:

“to declare the action of the Respondent Nos.2 and 3 in not notifying the Registered Sale Deed Dated 27.08.2020 bearing Document No.3845 of 2020, Registered Sale Deed Dated 15.06.2019 bearing Document No.4574 of 2019, Registered Mortgaged Deed Dated 15.10.2018 bearing Document No.8057 of 2018 and Registered Mortgaged Deed Dated 25.02.2020 bearing Document No.1371 of 2020 under Prohibition as null and void pursuant to the Award Dated 01.03.2024 in Arbitration Case No. 06 of 2023 on the file of Hon’ble Arbitral Tribunal, Sri Justice C.Praveen Kumar (Retd), at Hyderabad, as arbitrary, illegal and against to Section 22 A(1)(e) of the Registration Act and consequently to direct the Respondent Nos.2 and 3 to notify the said documents under Prohibition as null and void in respect of subject property.”

2. The brief facts of the case are that the petitioner had purchased the residential premise bearing H.No.40-384/1/5 part, admeasuring 398 Sq yds, in plot No.351/A part, in Sy.No.361/1, 316/2, 368/1, Jawahar Nagar Co-operative Society Limited, Moula-ali, Hyderabad, through registered sale deed dated 04.08.2018. Thereafter, the petitioner for development of the subject property *vide* Document No.6243 of 2018 dated 08.08.2018, entered into Development Agreement cum General Power of Attorney with M/s.Ajay Vamsi Infratech Private Limited. However, when the construction was not completed in a prescribed period, petitioner thereafter filed Arbitration case No.135 of 2021 and

the Hon'ble Court *vide* order dated 28.03.2023, was pleased to appoint Sri.Justice C.Praveen Kumar (Retd) as sole arbitrator to resolve the disputes between the parties. Thereafter, the sole arbitrator in Arbitration Case No.6 of 2023 was pleased to pass award dated 01.03.2024, wherein it was held that 'the development agreement-cum-GPA(DAGPA) dated 08.08.2018 is cancelled and in view of cancellation of the said DAGPA, all agreements/deeds executed pursuant thereto gets nullified and the claimant was entitled to proceed further in accordance with law'.

3. Subsequent to the Award dated 01.03.2024, the petitioner on 11.03.2024 made a representation and requested respondent Nos.2 and 3 to notify the development agreement-cum-GPA (DAGPA) dated 08.08.2018 as null and void under prohibition. However, when the same was kept pending, the petitioner on 20.04.2024, made another representation and requested respondent Nos.2 and 3, to notify the registered sale deeds bearing Document Nos.3845 of 2020 dated 27.08.2020, 4574 of 2019 dated 15.06.2019, 8057 of 2018 dated 15.10.2018 and 1371 of 2020 dated 25.02.2020 as null and void under prohibition. However, the respondent Nos.2 and 3 informed the petitioner that the award dated 01.03.2024 is not a Civil Court judgment and insisted the

petitioner to provide a copy of judgment from the Civil Court. Aggrieved by the same, petitioner filed the writ petition.

4. Learned counsel for the petitioner contended that the Award dated 01.03.2024 is not challenged by the parties therein, and further has drawn attention of this Court to the Section 22 A(1) (e) which reads as under:-

“any document or class of documents pertaining to the properties the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational, Cultural, Religious and Charitable Institutions, those attached by Civil, Criminal, Revenue Courts and Direct and Indirect Tax Laws and others which are likely to adversely affect those interests”.

5. Learned counsel for the petitioner submitted that as per Section 22A(1) (e), the respondent authorities are bound to notify the subject documents as null and void as prohibited for registration and pray this Court to direct the respondent authorities to notify the said documents under Prohibition as null and void.

6. Heard and perused the material available on record.

7. Upon perusal of the Award dated 01.03.2024, it is evident that the learned Arbitrator has cancelled the development agreement-cum-GPA(DAGPA) and in view of the cancellation of DAGPA, all agreements/deeds executed pursuant thereto gets nullified and the claimant was entitled to proceed further in accordance with law.

8. At this stage, it is relevant to refer to the order passed by the Andhra Pradesh High Court in **The Guntur City House Construction Co-operative Society Ltd Vs. The Thasildar, Guntur Mandal and another**¹, the relevant paragraph is extracted hereunder:-

“The reason-underlying clause (e) of Sub Section (1) and Sub Section (2) is manifest. The prohibition against registration of documents pertaining to a) the lands, whose transfer is prohibited under law b) lands owned by State or Central Government c) lands owned by religious institutions or surplus lands and, d) the lands that are rendered surplus, gets attracted straight away. A totally different purpose is sought to be achieved in respect of lands mentioned in clause (e). This category does not include lands not owned by State or Central Government or Religious or Educational Institutions. It is in respect of properties, vis-a-vis which accrued or existing interest of the government or its agencies are involved. In other words, even though a particular land or property may not be owned by the Government or institutions mentioned in that clause, the prohibition can be made to operate, in case such properties are under lease or other use by the said institutions or establishments. It is only in such cases, that issuance of notification is necessary, for the prohibition, to operate. It is a different matter that the aggrieved party may challenge the notification, if issued. As regards the properties covered under clauses (a) to (d) of Sub Section (1), no such notification is necessary. If the petitioner wants to assail the correctness or legality of the impugned proceedings, it can certainly avail the remedy under Section 87 of the Endowments Act before the Tribunal constituted for that purpose.”

9. It is also relevant to refer to **Vinjamuri Rajagopala Chary and others v. Principal Secretary, Revenue Department, Hyderabad and others**², wherein this Court observed the notification that the following procedure has to be followed for the purpose of clause (e) of Subsection

¹ 2012 SCC online AP 20

² 2016 (2) ALD 236 (FB) : 2015 SCC online Hyd 407

(1) of Section 22-A of the Stamps and Registration Act, 1908. The relevant paragraph of the aforesaid order is extracted hereunder:-

“137. For any document or classes of documents pertaining to properties to be covered by this clause, the Government or others mentioned in the clause shall have avowed or accrued interests, which are likely to be affected if those documents or classes of documents are allowed to be registered. Under sub-section (2), the State Government shall publish a notification after obtaining reasons for and full description of the properties by the District Collectors concerned in the prescribed manner. Therefore, before issuing a notification as required under sub-section (2) supra, the Government shall obtain reasons for and full description of properties. For obtaining these reasons, the Government has thought it fit to issue the following notification:

NOTIFICATION

Furnishing the Reasons and Description of Properties Prohibited from Registration

[G.O.Ms. No. 1248, Revenue (Reg-I), dated 26-9-2007]

In exercise of the powers conferred by sub-section (2) of Section 22-A of the Registration Act, 1908, (Act 16 of 1908) as amended by Andhra Pradesh Act 19 of 2007, the Governor of Andhra Pradesh hereby prescribed the following procedure for furnishing the reasons and description of property, for the purpose of clause (e) of sub-section (1) of Section 22-A of the said Act, 1908:

- (1) The District Collectors may send proposals to the State Government for issuing a notification after satisfying themselves that the property or the lists of properties fall(s) within the categories specified in clause (e) of sub-section (1) of Section 22-A of the Registration Act, 1908.*
- (2) The proposal of the District Collector shall contain the reasons for recommending prohibition of registration against each property.”*

10. In the case on hand, it is pertinent to note that the petitioner is the claimant/owner of a residential premises and the issue pertains to the development of his property and the dispute arose on the allotment of flats based on the registered DAGPA dated 08.08.2018. Since the DAGPA dated 08.08.2018 is cancelled *vide* Award dated 01.03.2024, the

provision of Section 22A (1) (e) in the considered opinion of the Court would not be applicable in the present case. The petitioner is totally misconceived with respect to the applicability of Section 22A (1) (e) of the Registration Act, 1908.

11. It is further noticed that the petitioner in the Arbitration Case No.6 of 2023, has made 5 parties as respondents; however respondent Nos.3, 4 and 5 therein were not necessary parties. The petitioner has not made the respondent Nos.1 and 2 therein as party respondent in the present case. Upon questioning the same, the petitioner submitted that they are not necessary party in the writ petition. In view of such submissions, this Court could not get clarity whether, the Award dated 01.03.2024, is actually challenged or not? Moreover, the petitioner nowhere in the writ-affidavit has stated whether the Award dated 01.03.2024 is challenged. In the absence of such pleadings, any order passed by this Court, at this point of time may adversely effect the rights of the parties/respondents in the Arbitration award.

12. The Hon'ble Supreme Court in the case of *Vijay Syal V.State of Punjab*³ has observed the following:-

“In order to sustain and maintain sanctity and solemnity of the proceedings in law courts it is necessary that parties should not make false or knowingly, inaccurate statements or misrepresentation and/or should not conceal material facts

³ (2003) 9 SCC 401 : 2003 SCC (L&S) 1112

with a design to gain some advantage or benefit at the hands of the court, when a court is considered as a place where truth and justice are the solemn pursuits. If any party attempts to pollute such a place by adopting recourse to make misrepresentation and is concealing material facts it does so at its risk and cost. Such party must be ready to take consequences that follow on account of its own making. At times lenient or liberal or generous treatment by courts in dealing with such matters are either mistaken or lightly taken instead of learning proper lesson. Hence there is a compelling need to take serious view in such matters to ensure expected purity and grace in the administration of justice."

13. In the present case, the petitioner has not come forward with all facts and has chosen to state the facts in the manner suited to him and has not followed the fair and proper procedure. The explanation put forth by the counsel for the petitioner in not making respondent No.1 and 2 of Arbitration case as party respondent herein is nothing but abuse of process of Court.

14. For the foregoing reasons, the writ petition being devoid of merits and is liable to be dismissed. Accordingly, dismissed.

Miscellaneous applications, if any pending, shall stand closed.

No order as to costs.

JUSTICE N.V.SHRAVAN KUMAR

Date: 07.06.2024.

Note:

L.R. copy to be marked.

B/o

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