

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITON NO.10182 OF 2020

Between:

Vedula Adilakshmi, W/o Late Butchi
Kameswara Rao, aged 81 years, Occ:
Housewife, R/o Narava Village,
Pendurthi Mandal, Visakhapatnam.

... Petitioner

Versus

State of Andhra Pradesh, Rep. by its
Principal Secretary, Revenue (Stamps
and Registration) Department,
Secretariat, Velagapudi, Amaravati
and 16 others.

... Respondents

DATE OF ORDER PRONOUNCED : **05.07.2023**

SUBMITTED FOR APPROVAL :

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers
may be allowed to see the order? : Yes/No
2. Whether the copy of order may be
marked to Law Reporters/Journals? : Yes/No
3. Whether His Lordship wish to
see the fair copy of the order? : Yes/No

SUBBA REDDY SATTI, J

*** HONOURABLE SRI JUSTICE SUBBA REDDY SATTI**

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and 16 others.

... Respondents

! Counsel for Petitioners : Sri V.V. Satish

^ Counsel for Respondents : Government Pleader
for Stamps and Registration,
Sri T. Sai Surya

< Gist:

> Head Note:

? Cases referred:

2020 (2) ALT 452:2020 SCC OnLine TS 203

This Court made the following:

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.10182 of 2020

Vedula Adilakshmi, W/o Late Butchi Kameswara Rao, aged 81 years, Occ: Housewife, R/o Narava Village, Pendurthi Mandal, Visakhapatnam.

... Petitioner

Versus

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... Respondents

Counsel for the petitioner

: Sri V.V. Satish

Counsel for respondents

: Government Pleader
for Stamps and
Registration,
Sri T. Sai Surya

ORDER:

This writ petition under Article 226 of the Constitution of India, is filed seeking the following relief:

“... to issue any writ, order or direction more particularly one in the nature of writ of mandamus declaring the orders passed by the 3rd respondent in entertaining registration and passing orders in Procs. No.Nil/2020 dated 01.02.2020 in violation of orders passed by the 2nd respondent is illegal and arbitrary and violation of Art.14 of the Constitution of India and to consequently direct the 3rd respondent not to entertain registrations in respect of land situated in an extent of Ac.32-00 cents of covered by R.S.No.7/4A and Inam Patta T.D.No.3072 of Old sy.No.225/1C (New

Sy.No.7/4a, 3a, 7/4a, 3b, 7/4a, 3c of Narava Village, Pendurthi Mandal, Visakhapatnam District covered by interim orders of this Hon'ble Court in I.A.No.1 of 2019 in A.S.No.1862 of 2018 dated 21-11-2019 and to pass such other or further orders ...”

2. The case of the petitioner, in brief, is that petitioner filed suit O.S.No.293 of 2009 on the file of VI Additional District Judge, Visakhapatnam seeking partition of the property mentioned therein, against respondent Nos.4 and 6 to 16 herein and others. Said suit was decreed on 01.08.2018 and preliminary decree was passed by the competent civil court. Respondent No.4 in this writ petition, one of the defendants in the suit, filed appeal A.S.No.1862 of 2018 against preliminary decree in O.S.No.293 of 2009. Along with the appeal, respondent No.4 herein filed I.A.No.1 of 2019. Division Bench of this Court by order, dated 21.11.2019 in I.A.No.1 of 2019 directed the respondents therein not to create any third party interest over the subject property. Further, observed that final decree proceedings may go on, however final decree shall not be passed until further orders. Copy of said order was served on respondent No.3 by way of representation, dated 21.01.2020. Respondent No.3, by endorsement vide proceedings No.Nil/2020 dated 01.02.2020

informed the petitioner that registration cannot be stopped on the grounds stated in the petition under Rule 58 of the Registration Act, 1908. The authority further advised the petitioner to seek redressal in the Court of law, if so, desired. Aggrieved by the same, above writ petition is filed.

3. Heard learned counsel for the petitioner, learned AGP for Revenue for respondent Nos.1 to 3 and Sri Lalit, learned counsel representing Sri T. Sai Surya, learned counsel for respondent No.16.

4. There is no dispute regarding filing of suit, passing of preliminary decree, filing appeal against the said preliminary decree and also granting of interim order in appeal. When an injunction was granted restraining the respondents from alienating the properties pending appeal, whether the documents presented by the parties will be entertained and registered, when such an order of restraint was brought to the notice of authority?

5. It is profitable to extract standing order No. 219(b) which reads as follows:

“If the Andhra Pradesh high court or any Civil Court restrains a person from alienating a property

and if such orders are brought to the notice of the Registering officers or served on the Registering Officer, the Registering officer is estopped from going ahead with the registration.”

6. In this connection, it is not out of place to mention here that respondent No.2 issued Circular Memo No.1/Gen.1/2010 dated 10.03.2010. A perusal of the memo would indicate that as per standing order 219(b), in case there is an injunction by High Court or competent civil court restraining alienation and if such orders are brought to the notice of Registering Officers or served on Registering Officer, the Registering Officer is estopped from going ahead with registration. Commissioner and Inspector General issued the said circular.

7. In **T. Ganesh vs. State of Telangana**¹, where a batch of writ petitions were filed before Telangana High Court, when Registering Authority refused to entertain registration, basing on the circular memo, learned Single Judge of Telangana High Court, came to the conclusion that refusal to register and release document on the ground that injunction order of civil court in pending suit was operating, is in consonance with SO 219 (b) and the circular instructions of

¹ 2020 (2) ALT 452:2020 SCC OnLine TS 203

Commissioner and that such act on the part of the Registering Authority is valid.

8. The contention of respondent No.3 is that interim order passed in I.A.No.1 of 2019 in A.S.No.1862 of 2019 was not communicated to respondent No.3. During course of arguments, it was contended by learned counsel for the petitioner that copy of order was served on respondent No.3. Even after passing interim order in the writ petition, notwithstanding standing order 219(b) and circular memo, respondent No.3 registered some documents. Hence, writ petitioner filed contempt case and the same is pending.

9. Whether the officer violated the interim order passed by this court in the above writ petition or not will be decided in contempt case. Counsel for the writ petitioner would contend that the injunction granted on 21.11.2019 in I.A.No.1 of 2019 in A.S.No.1862 of 2018 is subsisting.

10. Thus, in view of the discussion supra, this writ petition is disposed of setting aside the proceedings issued respondent No.3 vide No.NIL/2020, dated 01.02.2020. Respondent No.3 shall not entertain any registration in

respect of the suit schedule property in O.S.No.293 of 2009.

No costs.

As a sequel, all the pending miscellaneous petitions shall stand closed.

SUBBA REDDY SATTI, J

Date: 05.07.2023

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THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.10182 of 2020

Date : 05.07.2023

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