

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

MONDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE GANNAMANENI RAMAKRISHNA
PRASAD

WRIT PETITION Nos: 12682 & 12729 of 2024



WRIT PETITION No: 12682 of 2024

Between:

N Jayakumar, S/o. Nemichand Jain Aged about 60 years R/o. Trunk Road,
Poonamallee, Thiruvallur District, Chennai 600 056.

Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principle Secretary, Revenue Department, Secretariat Buildings, Velagapudi, Amaravati, Guntur District.
2. The District Collector, Chittoor District, Chittoor-517 002
3. The Revenue Divisional Officer, Nagari, Chittoor District-517 590
4. The Tahsildar, Vijayapuram, Chittoor District-517 586
5. The DBS Bank India Limited, Regional Office @ No. 460/2, 8th B Main, PTK Complex, Jayanagar 4th Block, Bengaluru 560 011.
6. Mr. Suresh Kumar Bafna, S/o. Mr. Askaran Bafna, Aged about 49 years, R/at. A104, Mantri Greens, No.1, Sampige Road, Next to Mantri Mall, Malleshwaram, Bangalore North, Bengaluru 560 003.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be

pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of CERTIORARIFIED MANDAMUS setting aside the impugned order passed by the 3RD Respondent in Roc. G439/2020 dt. 12- 02- 2020 Converting agriculture lands in survey no. 165/2B1 measuring 0.04 acres. survey no. 165/2B2 measuring 3.01 acres AND survey, no. 165/2B4 measuring 3.05 acres situated in No. 47, Maharajapuram Village, Vijayapuram Mandal, Chittoor District to non-agricultural lands and consequently directing the 2nd and 3rd Respondents to re-classify the aforementioned lands as agricultural lands

IA NO: 2 OF 2024

Petition under Section 151 of CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant an interim stay on the operation of the impugned order passed by the 3RD Respondent in Roc. G439/2020 dt. 12-02-2020 along with all further proceedings arising there from and consequently restrain the 5TH Respondent from subjecting the lands in survey no. 165/2B1 measuring 0.04 acres, survey no. 165/2B2 measuring 3.01 acres & survey, no. 165/2B4 measuring 3.50 acres situated in No. 47, Maharajapuram Village, Vijayapuram Mandal, Chittoor District to sale by public auction on 09-07-2024 in pursuance of the impugned order of reclassification and notice dt. 31-05-2024 issued under Rules 8(5) and 9(1) of the Security Interest (Enforcement) Rules, 2002, Pending disposal of WP 12682 of 2024, on the file of the High Court.

WRIT PETITION NO: 12729 OF 2024

Between:

Mr. N. Jayakumar, S/o. Nemichand Jain, Aged about 60 years R/o. Trunk Road, Poonamallee, Thiruvallur District, Chennai 600 056.

Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principle Secretary, Revenue Department, Secretariat Buildings, Velagapudi, Amaravati, Guntur District.
2. The District Collector, Chittoor District, Chittoor-517 002
3. The Revenue Divisional Officer, Nagari, Chittoor District-517 590
4. The Tahsildar, Vijayapuram, Chittoor District-517 586
5. The DBS Bank India Limited, Regional Office @ No. 460/2, 8th B Main, PTK Complex, Jayanagar 4th Block, Bengaluru 560 011.
6. Mr. Suresh Kumar Bafna, S/o. Mr. Askaran Bafna, Aged about 49 years, R/at. A104, Mantri Greens, No.1, Sampige Road, Next to Mantri Mall, Malleshwaram, Bangalore North, Bengaluru 560 003

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of CERTIORARIFIED MANDAMUS setting aside the impugned order passed by the 3rd Respondent in Roc.G440/2020 dt. 12-02-2020 Converting agriculture lands in survey no. 114/1B measuring 1.98 acres situated in Maharajapuram Village, Vijayapuram Mandal, Chittoor District to non- agricultural lands and consequently directing the 3rd and 4th Respondents to re classify the aforementioned land as agricultural land.

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant an interim stay of the impugned order passed

by the 3rd Respondent in Roc.G440/2020 dt. 12-02-2020 along with all further proceedings arising therefrom and consequently restrain the 5th Respondent from subjecting the land in survey no. 114/1B measuring 1.98 acres situated in Maharajapuram Village, Vijayapuram Mandal, Chittoor District to sale by public auction on 09-07-2024 in pursuance of the impugned order of reclassification and notice dt. 31-05-2024 issued under Rules 8(5) and 9(1) of the Security Interest (Enforcement) Rules, 2002, Pending disposal of WP No.12729 of 2024, on the file of the High Court.

The Petitions coming on for hearing, upon perusing the Petitions and the affidavits filed in support thereof and upon hearing the arguments of SRI DASARI S V V S V PRASAD Advocate for the Petitioner, and of GP FOR REVENUE, for the Respondent Nos.1 to 4, the Court made the following

ORDER

Heard Sri N. Srinivas Jayaprakash, learned Counsel representing Sri Dasari S.V.V.S.V.Prasad, learned Counsel for the Writ Petitioner and Sri G. Arjun Chowdary, learned Asst. Government Pleader for Revenue appearing for Official Respondents.

2. On 25.06.2024, this Court has issued two directions viz., (i) that the Official Respondents were directed to produce the original file relating to conversion of land and (ii) has issued personal notice to Respondent Nos. 5 and 6 with a direction to file proof of service.

3. Learned Counsel has drawn the attention of this Court to the Memo filed on 08.07.2024 along with the postal data. The said data would indicate that the Respondent No.5 was served on 06.07.2024 and insofar as Unofficial Respondent No.6 is concerned, the Postal endorsement would indicate that 'there is no such person at the address'. Learned

Counsel for the Writ Petitioner would submit that the address of Respondent No.6 is the same as mentioned in the very Auction Notice dated 31.05.2024, issued by the Respondent No.5 (Ex.P.8). The said Auction Notice dated 31.05.2024 would indicate that the mortgaged properties would be auctioned on 09.07.2024.

4. It is the case of the Writ Petitioner that Respondent No.6 herein, who is none other than the brother-in-law of the Writ Petitioner, has availed loan from the Respondent No.5 Bank in the year 2012 and that the Writ Petitioner has willingly mortgaged the land of an extent of Ac.8.53 cents in Survey Nos. 165/2B1, 165/2B2, 165/2B4 and 114/1B situated at Maharajapuram village, Vijayapuram Mandal, Chittor District.

5. Learned Counsel for the Writ Petitioner would submit that in the year 2020, the Writ Petitioner has not renewed the guarantee. Learned Counsel would submit that the Unofficial Respondent No.6, with the collusion of Official Respondent No.5 Bank as well as the Officials in the Revenue Department had illegally got his land converted from agriculture classification to that of non-agriculture classification. He would further submit that the record would indicate that the Writ Petitioner has made an Application for conversion of land before the Revenue Divisional Officer, Chittor on 21.01.2020 and in pursuance of the same, the said Revenue Divisional Officer has directed the Tahasildar of Vijayapuram Mandal to change the agriculture land to non-agriculture land in the Web land as well as in the other connected Revenue records vide proceedings bearing Roc.G/439/2020 and G/440/2020 dated 12.02.2020 (Ex.P.1 in both Writ Petitions). He would submit that it is only after converting the land from agriculture to non-agriculture that the Respondent No.5 would be able to bring the land for Auction for realizing the arrears of debt due from the Respondent No.6.

6. The Writ Petitioner cries foul of these proceedings of the Revenue Authorities stating that the Writ Petitioner had never made such Application and that the signatures on the Application are forged. Having taken note of these facts, learned Predecessor of mine, had, by Order dated 25.06.2024 called for the record from the Revenue Authorities.

7. In compliance of the said direction, Sri Arjun Chowday, learned Asst. Government Pleader has placed on record the original file. This Court had directed the learned Counsel for the Writ Petitioner to inspect the original record in the presence of the Officer who had brought the file viz., K. Naga Raju, Deputy Tahasildar (DT), Vijayapuram Mandal, Chittoor District.

8. On the scrutiny of the record, learned Counsel for the Writ Petitioner would point out that at running page 13 of the file bearing Roc.G/439/2020 and G/440/2020 dated 12.02.2020 (Ex.P.1 in both Writ Petitions) are the Applications, where the date is overwritten indicating either as 21.01.2020 or 21.02.2020. Learned Counsel would submit that the signature on this Application is not that of the Writ Petitioner. In order to show the distinction, learned Counsel had furnished the copy of the Passport of the Writ Petitioner bearing No. J8516861, which contains the signature of the Writ Petitioner. He would submit that the signature on the Application seeking conversion of land does not tally with the signature in the Passport. This Court had also noticed that there are more differences than similarities in the signatures prima facie, suggestive of forgery. Learned Counsel for the Writ petitioner would also submit that the Writ Petitioner never paid processing application fee for conversion of the agriculture land into non-agriculture land.

9. It is therefore, submitted that the DBS Bank India Limited (Respondent No.5), the defaulted borrower (Respondent No.6) and the Revenue Authorities have colluded together in bringing a situation where the properties of the Writ Petitioner (Guarantor) were brought for auction. He would submit that if the auction is held, it would cause grave prejudice to the Writ Petitioner and would seek indulgence of this Court to suspend the Impugned Order bearing No. bearing Roc.G/439/2020 and G/440/2020 dated 12.02.2020 (Ex.P.1 in both Writ Petitions) issued by the Revenue Divisional Officer, Chittor (Respondent No.3 in both Writ Petitions) and also to stay the auction, which has likely to be conducted tomorrow i.e., on 09.07.2024. As per the Auction Notice dated 31.05.2024, the Auction is likely to take place on 09.07.2024.

10. On verification whether there is representation on behalf of the Respondent No.5 viz., the DBS Bank India Limited, Bengaluru, the Court Officer, on online verification, has informed the Court that Sri T. Venkata Naga Vasudeva Rao, learned Counsel has filed Vakalat today and entered his appearance. Having noticed this fact, this Court had directed the Registry to scroll the name of the learned Counsel viz., Sri T. Venkata Naga Vasudeva Rao on the Display Board to enable learned Counsel to appear before this court and immediately this matter will be taken up after 40 minutes. When the matter is taken up after 40 minutes, there is no appearance of the learned Counsel or representation on behalf of Respondent No.5 Bank.

11. In this view of the matter, since there is no appearance on behalf of the Respondent No.5 Bank, this Court deems it appropriate to direct the Registry to list this matter on 11.07.2024 in the Motion List.

12. Having regard to the fact that the Respondent No.5 Bank has brought the properties of the Writ Petitioner to auction and the same is

likely to be auctioned on 09.07.2024, this Court deems it appropriate to suspend the Impugned Order bearing Roc.G/439/2020 and G/440/2020 dated 12.02.2020 (Ex.P.1 in both Writ Petitions) and the Auction Notice dated 31.05.2024 (Ex.P.8) until further orders. It is ordered accordingly.

13. There shall be further direction to Respondent No.5 not to proceed with the auction until further orders.

14. The Court Officer is directed to seal to the original record of both the file Nos. Roc.G/439/2020 and Roc.G/440/2020 dated 12.02.2020 and keep them under the custody of the Registrar (Judicial) and produce the same on the next date of hearing.

SD/- M.SRINIVAS
ASSISTANT REGISTRAR
SECTION OFFICER

//TRUE COPY//

For

To,

1. The Registrar (Judicial), High Court of Andhra Pradesh, at Amaravati
2. The Principle Secretary, Revenue Department, State of Andhra Pradesh, Secretariat Buildings, Velagapudi, Amaravati, Guntur District.
(by Special messenger)
3. The District Collector, Chittoor District, Chittoor-517 002
4. The Revenue Divisional Officer, Nagari, Chittoor District-517 590
5. The Tahsildar, Vijayapuram, Chittoor District-517 586
6. The DBS Bank India Limited, Regional Office @ No. 460/2, 8th B Main, PTK Complex, Jayanagar 4th Block, Bengaluru 560 011.
7. Mr. Suresh Kumar Bafna, S/o. Mr. Askaran Bafna, Aged about 49 years, R/at. A104, Mantri Greens, No.1, Sampige Road, Next to Mantri

Mall, Malleshwaram, Bangalore North, Bengaluru 560 003.

(Addressees 3 to 7 by RPAD)

8. One CC to SRI. DASARI S V V S V PRASAD Advocate [OPUC]
9. Two CCs to GP FOR REVENUE, High Court Of Andhra Pradesh.
[OUT]
10. **One spare copy**

PSR

HIGH COURT

GRKP,J

DATED:08/07/2024

NOTE: LIST THE MATTER ON 11.07.2024 IN THE MOTION LIST

ORDER

WRIT PETITION Nos: 12682 & 12729 of 2024

INTERIM DIRECTION

