

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF JANUARY

TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NO: 143 OF 2023

Between:

Modi Realty Pocharam LLP, Rep. by its Authorised Signatory, Soham Modi, S/o. Late Satish Modi, R/o.5-4-187/3&4, Soham Mansion, M.G. Road, Secunderabad-500003.

...PETITIONERS

AND

1. State of Telangana, rep by Principal Secretary, Revenue Department, Secretariat Hyderabad
2. The Commissioner, Stamps and Registration Department, Hyderabad.
3. The Registrar, Medchal-Malkajgiri District.
4. The Sub-Registrar, Narapally, Medchal-Malkajgiri District

...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 a Writ of Mandamus or any other appropriate Writ order or direction (a) declaring the action of the Respondents 2 to 4 in issuing Memo No.262 of 2022 dated 12.10.2022 as arbitrary, illegal and unsustainable and set aside the same and, (b) consequently direct the Respondents to delete the land admeasuring Ac.1-28 gts and Ac.0-301/2 Gts., in Survey No.27(Part), Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District, from the list of Prohibited Properties maintained U/s. 22A of the Registration Act and (c) consequently direct the 3rd and 4th Respondents to receive, register and release the conveyance deeds presented by the Petitioner Firm in favour of its customers in respect of Apartments and Units in land admeasuring Ac.1-28 gts and Ac.0-301/2 Gts., in Survey No.27(Part). Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District;

IA NO: 1 OF 2023

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 direct the Respondent No.2 to 4 to receive, register and release conveyance deeds executed by the Petitioner Firm in favour of its customers in respect of Apartments and Units in land admeasuring Ac.1-28 gts and Ac.0- 301/2 Gts., in Survey No.27(Part), Pocharam Village, Ghatkesar Mandal, Medchal-Malkajgiri District;

Counsel for the Petitioners: SRI. PRABHAKAR PERI

Counsel for the Respondent Nos 1 to 4: AGP FOR STAMPS AND
REGISTRATION

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.143 of 2023

ORDER:

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Stamps and Registration appearing for the respondents.

2. This writ petition is filed aggrieved by the Memo No.262 of 2022, dated 12.10.2022, issued by respondent No.4 wherein respondent No.4 requiring the petitioner to submit the information as under:

"1. Modified orders in ARB OP No.1611 of 2015 in respect of OP No.1583 of 2016 which was said to be erroneously furnished in the Honourable Court orders.

2. Certified copies of all the orders of Award issued by the Honourable Court in this issue.

3. Copies of the receipts for the acknowledgement of the amounts to be paid by the respondents as passed by the sole Arbitrator in A.A.No.87 of 2015 even after confirming the orders of the said Award in ARB Appeal No.1594 of 2016 and no information is available in respect of ARB Appeal No.1593 of 2016 filed against the orders of A.A.No.67 of 2015.

4. There is no such information is available that the details of Awards or other orders of the Hon'ble Court passed in favour of remaining petitioners/claimants in this issue as filed in ARB OP No.1611 of 2015.

5. After verification of all orders of Award and further appeals filed by the respondents, it is noticed that the entire

issue is related to Survey No.27 admeasuring Ac.1.20 guntas of Pocharam Village only. Further, appeals filed by the respondents are dismissed and no such information is available that the orders of Award were implemented by refunding the certain amounts to be petitioner as per the Award.

6. The undersigned has no such jurisdiction to delete a property which was kept in prohibition properties list on the ground that a suit or case is pending before the competent Court of Law without producing the final orders of such Court of Law."

3. From the material on record, it is noticed that the subject property situated in Survey No.27 admeasuring Ac.1.20 guntas of Pocharam Village, Ghatkesar Mandal, Medchal – Malkajgiri District, was included in the prohibitory properties list by virtue of the orders dated 21.08.2015 in Arbitration O.P.No.1611 of 2015 filed by Gayatri and others. The said Arbitration O.P. was finally disposed of by an order dated 13.10.2017 dismissing the said O.P. A copy of the said final order is placed before this Court by respondent No.4 along with the written instructions dated 09.01.2023. From the said written instructions, it is evident that respondent No.4 is fully aware of the final order passed in Arbitration O.P.No.1611 of 2015. In spite of the same, respondent No.4 required the petitioner to produce the modified orders in Arbitration O.P.No.1611 of 2015 and O.P.No.1583 of

2016. In addition to the same, respondent No.4 also required the petitioner to produce the certified copies of the orders of awards and the copies of receipts for acknowledgement of the amounts to be paid by the respondents as per the award in A.A.No.87 of 2015 etc. In the considered opinion of this Court, respondent No.4, having included the subject property in the prohibitory properties list by virtue of the orders in Arbitration O.P.No.1611 of 2015 and after having come to know about the dismissal of the said O.P., has no business to look into the further proceedings that have taken place against the awards passed and the subsequent proceedings under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act, 1996').

4. In the absence of any continuous operation of the restraint order passed in Arbitration O.P.No.1611 of 2015 w.e.f. 13.10.2017, respondent No.4 has no jurisdiction or power or authority to continue the subject property in the list of prohibitory properties and it is no part of his business to wait for the result of the appeals that were filed under Section 34 of the Act, 1996 or any other consequential proceedings

5. In the circumstances, this Court is of the considered view that the impugned Memo issued by respondent No.4 requiring the petitioner to submit various information, as detailed

therein, is totally arbitrary, illegal and a result of extraneous consideration.

6. The writ petition is accordingly allowed and the impugned Memo No.262 of 2022, dated 12.10.2022, is set aside and respondent No.2 to 4 are further directed to take immediate steps for deletion of the land admeasuring Ac.1.28 guntas and Ac.0.30½ guntas in Survey No.27 (Part) of Pocharam Village, Ghatkesar Mandal, Medchal – Malkajgiri District, from the list of prohibitory properties under Section 22-A of the Registration Act, 1908 and pass appropriate orders thereon within a period of three weeks from the date of receipt of a copy of this order. Respondent No.2 is further directed to look into the manner in which the impugned Memo was issued by respondent No.4 and also look into the propriety of respondent No.4 in going beyond his jurisdiction etc., and take appropriate action, if necessary, as he deems fit and proper. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Revenue Department, Secretariat State of Telangana, Hyderabad
2. The Commissioner, Stamps and Registration Department, Hyderabad.

3. The Registrar, Medchal-Malkajgiri District.
4. The Sub-Registrar, Narapally, Medchal-Malkajgiri District
5. One CC to SRI. PRABHAKAR PERI Advocate [OPUC]
6. Two CCs to GP FOR STAMPS AND REGISTRATION, High Court for the State of Telangana, Hyderabad. [OUT]
7. Two CD Copies



HIGH COURT

MSK, J

DATED: 10/01/2023

ORDER

WP.No.143 of 2023

**WP IS ALLOWED
OF WITHOUT COSTS**

