

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 292 OF 2024

Writ Appeal under clause 15 of the Letters Patent preferred against the Order dated 25/01/2024 in W P No 38231 of 2015 on the file of the High Court.

Between:

Gaddam Mohan Reddy, S/o Lakshma Reddy Aged about 50 years, Occ. Business R/o H.No. 8-32/A, Hema Nagar Boduppal, Ranga Reddy District.

...APPELLANT/RESPONDENT No.7

AND

1. Sri V.L.Siva Narayana, S/o Venkatappa Rao Aged about 54 years, Occ. Business R/o Plot No. 376/C, Flat No. 301/A, Mahaveer Residency, Jubilee Hills, Hyderabad.
2. Smt.Vasireddy Nagakumari, W/o V.L.Siva Narayana Aged about 48 years, Occ. House wife R/o Plot No. 376/C, Flat No. 301/A, Mahaveer Residency, Jubilee Hills, Hyderabad.

...RESPONDENTS/PETITIONERS

3. The State of Telangana, rep by its Principal Secretary Revenue Department, Secretariat, Hyderabad.
4. The Hyderabad Metropolitan Development of Authority, Rep by its Commissioner, Block No.-A, Dist.Commercial Complex, Tarnaka, Hyderabad.
5. The Land Acquisition Officer, Hyderabad Metropolitan Development of Authority Block No.-A, Dist.Commercial Complex, Tarnaka, Hyderabad.
6. The District Collector, Ranga Reddy District Lakdikapool, Hyderabad.
7. The Revenue Divisional Officer, Malkajgiri, Ranga Reddy, District.
8. The Tahsildar, Uppal (Bhagath) Mandal Uppal, Ranga Reddy District.

...RESPONDENTS/RESPONDENTS No.1to6

IA NO: 1 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 suspend the Order dated 25-01-2024 passed in W.P.No. 38231 of 2015 pending disposal of the Writ Appeal in the interest of justice.

Counsel for the Appellant : SRI M.RAMA RAO

**Counsel for the Respondents No.1&2 : SRI B.MAYUR REDDY, Sr.COUNSEL
rep., SRI MAMILLA ASHWIN REDDY**

Counsel for the Respondents No.3&5 : Ms.RADHA REDDY, AGP FOR L.A

Counsel for the Respondent No.4 : Ms.D.MADHAVI, SC FOR HMDA

Counsel for the Respondents No.6to8 : ASST. GP FOR REVENUE

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT APPEAL No.292 of 2024

JUDGMENT: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. M.Rama Rao, learned counsel for the appellant.

Mr. B.Mayur Reddy, learned Senior Counsel representing Mr. Mamilla Ashwin Reddy, learned counsel for respondent Nos.1 and 2.

Ms. Radha Reddy, learned Assistant Government Pleader for Land Acquisition for respondent Nos.3 and 5 to 8.

Ms. D.Madhavi, learned Standing Counsel for Hyderabad Metropolitan Development Authority (HMDA) for respondent No.4.

2. With consent of the learned counsel for the parties, the matter is heard finally.

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3. In this intra court appeal, the appellant has assailed the validity of the order dated 25.01.2024 passed by the learned Single Judge in W.P.No.38231 of 2015, by which writ petition preferred by respondent Nos.1 and 2 has been allowed.

4. Facts giving rise to filing of the appeal briefly stated are that respondent Nos.1 and 2 are the owners of land measuring Ac. 0.27 guntas and Ac. 0.10 guntas of Survey Nos.543 and 549/2 respectively, situated at Uppal (Bhaghat) in Ranga Reddy District (hereinafter referred to as 'the subject land'). According to respondent Nos.1 and 2, the appellant sold the aforesaid land to respondent Nos.1 and 2 by entering into Agreement of Sale-cum-General Power of Attorney dated 16.03.2001 and 31.12.2001 respectively and subsequently sale deeds dated 05.10.2005 were also executed by the appellant in favour of respondent Nos.1 and 2. According to respondent Nos.1 and 2, their names were also mutated *vide* proceeding dated 25.02.2006 in the revenue records and pahani patrikas.

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5. It appears that certain lands including the subject land was required for development of Musi River. Thereupon, a draft notification dated 23.08.2005 under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') was issued on 23.08.2005. Subsequently, a draft declaration under Section 6 of the Act was issued on 05.07.2006. It is the case of respondent Nos.1 and 2 that even though the appellant had sold the subject land to respondent Nos.1 and 2, in the award enquiry, the appellant submitted a claim for grant of compensation and an award was passed on 19.07.2008 by the land Acquisition Officer. The Municipal Administration and Urban Development Department *vide* G.O.Ms.No.36 dated 22.01.2011 accorded approval for allotment of 1000 square yards of developed area per acre in lieu of compensation to the land owners who have given their willingness under Section 31 of the Act. It is the case of respondent Nos.1 and 2 that they came to know about the acquisition proceedings on 08.12.2014 and thereafter filed the writ petition seeking a direction to respondent Nos.3 to

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8 to allot 675 square yards of developed land in Survey No.543 and to make payment of compensation to them. The learned Single Judge by an order dated 25.01.2024 *inter alia* held that the appellant had already sold the subject land to respondent Nos.1 and 2. Therefore, respondent Nos.3 to 8 were directed to allot developed land to the extent of 675 square yards to respondent Nos.1 and 2 and to make payment of *ex-gratia*/compensation to respondent Nos.1 and 2. Hence, this appeal.

6. Learned counsel for the appellant submits that the sale deeds dated 05.10.2005 executed by the appellant in favour of respondent Nos.1 and 2 are not an out and out sale but the same were executed as a security for loan. It is further submitted that the appellant was paying the amount of interest per month to respondent Nos.1 and 2. It is further submitted that the appellant has already filed a suit in the year 2017, namely O.S.No.451 of 2017, seeking a declaration that the sale deeds are not binding on him.

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7. On the other hand, learned Senior Counsel for respondent Nos.1 and 2 has supported the order dated 25.01.2024 passed by the learned Single Judge in W.P.No.38231 of 2015.

8. We have considered the submissions made on both sides and have perused the record.

9. Admittedly, the appellant had executed sale deeds in favour of respondent Nos.1 and 2 on 05.10.2005. From the perusal of the material papers filed along with the affidavit of the appellant dated 04.06.2002, it is evident that the appellant has admitted that he received the entire sale consideration and delivered possession of the subject land to respondent Nos.1 and 2 and has no objection in creating equitable mortgage in respect of the subject land by depositing the title deed and patta as collateral security in favour of M/s. Punjab National Bank, Somajiguda Branch.

10. The issue whether or not the sale deeds dated 05.10.2005 are an out and out sale or were executed as a

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security for loan is an issue which is pending adjudication before the civil Court in O.S.No.451 of 2017.

11. We are therefore not inclined to examine the issue with regard to the nature of the transaction between the appellant and respondent Nos.1 and 2 in this intra court appeal, which arises from an order which has been passed in exercise of powers under Article 226 of the Constitution of India. However, the allotment of developed land and payment of compensation to respondent Nos.1 and 2 in pursuance of the order dated 25.01.2024 passed by the learned Single Judge in W.P.No.38231 of 2015 is made subject to result of O.S.No.451 of 2017 pending before the Senior Civil Judge, Ranga Reddy District at L.B.Nagar.

12. To the aforesaid extent, the order dated 25.01.2024 passed by the learned Single Judge in W.P.No.38231 of 2015 is modified.

13. In the result, the Writ Appeal is disposed of.

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Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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SD/-I. NAGA LAKSHMI
DEPUTY REGISTRAR
SECTION OFFICER

To,

1. The Principal Secretary Revenue Department, Secretariat, State of Telangana, Hyderabad.
2. The Commissioner, Hyderabad Metropolitan Development of Authority, Block No.-A, Dist.Commercial Complex, Tarnaka, Hyderabad.
3. The Land Acquisition Officer, Hyderabad Metropolitan Development of Authority Block No.-A, Dist.Commercial Complex, Tarnaka, Hyderabad.
4. The District Collector, Ranga Reddy District Lakdikapool, Hyderabad.
5. The Revenue Divisional Officer, Malkajgiri, Ranga Reddy, District.
6. The Tahsildar, Uppal (Bhagath) Mandal Uppal, Ranga Reddy District.
7. The Senior Civil Judge Ranga Reddy District L.B.Nagar
8. One CC to SRI M.RAMA RAO, Advocate. [OPUC]
9. One CC to SRI MAMILLA ASHWIN REDDY, Advocate. [OPUC]
10. Two CCs to GP FOR LAND ACQUISITION, High Court for the State of Telangana at Hyderabad. [OUT]
11. One CC to Ms.D.MADHAVI, SC FOR HMDA. [OPUC]
12. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad. [OUT]
13. Two CD Copies.

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HIGH COURT

DATED:23/09/2024



JUDGMENT

WA.No.292 of 2024

**DISPOSING OF THE WRIT APPEAL
WITHOUT COSTS**

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16/10/24