

HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

**WRIT PETITION Nos.328, 1236, 1272, 2852,
2908, 2913, 2936, 2985, 3045, 3046 AND 4991 OF 2022**

COMMON ORDER :

Since common issues are involved in all these matters, they are being disposed of by this common order with the consent of both sides at the stage of admission itself.

2. These writ petitions have been filed to declare action of various Sub Registrars in the State in refusing to receive, process, register and release the sale deeds, gift deeds etc., presented by the petitioners, on the grounds of the Memo bearing Nos.G2/257/2019 dated 26.08.2020 and dated 29.12.2020 issued by the Commissioner and Inspector General of Registration and Stamps, Telangana (hereinafter referred to as 'C&IG'), and the Letter No.45/TP/NMC/2019 dated 01.11.2019 issued by the Commissioner, Municipal Corporation, Nizampet to the Sub Registrar, Quthbullapur, Ranga Reddy District, as being illegal, arbitrary and unconstitutional.

3. The Memo No.G2/257/2019 dated 26.08.2020 issued by the C&IG reads as under:

“It is the objective of the state government to ensure planned development in the state. Various statutes and rules have been made with safeguards to see that the above objective is achieved. The Telangana Municipalities Act, 2019 and the Telangana Panchayat Raj Act, 2018 provide for

safeguards against registration of unapproved plot, sub-divisions, buildings and structures, etc.

2. The relevant provisions of the above mentioned acts and other relevant rules are as follows:

i. Section 172(16) of the Telangana Municipalities Act, 2019 which stipulates that “No new plots or sub-division shall be registered by Registration Authority unless it is approved by the authority as per the provisions of the Act”.

ii. Section 178(3) of the Telangana Municipalities Act, 2019 which stipulates that “The Registration Authority shall not register any building or structure or part of the building without the production of sanctioned plan approved by the Municipality”.

iii. Section 113 (8) of the Telangana Panchayat Raj Act, 2018 which mandates that “No pieces of land for building purpose shall be sold by any owner or developer which is not a part of an approval layout: Provided that it shall not be applicable to plots of land in Grama Kantam having an existing building”.

iv. Under Rule 13(C) of Telangana Regularisation of Unapproved Illegal Layout Rules, 2015 (G.O.Ms.No.151, MAUD Department, dated 02.11.2015) (Failure to come forward for Regularisation of unapproved layouts/plots) it has been specified that “Such unapproved layouts shall be recorded in the prohibitory properties of the Registration

Department and no sale/disposal or transactions shall be allowed in such sites.”

v. Rule 26(h) of Common Building Rules [G.O.Ms.No.168, MAUD Department dated 07.04.2012] stipulates that *“The Registration authority shall register only the permitted built up area as per the sanctioned plan and only upon producing and filing a copy of such sanctioned building plan. On the registration document it should be clearly mentioned that the registration is in accordance with the sanctioned building plan in respect of setbacks and number of floors.”*

3. In order to enforce the above statutory and rule positions, the following instructions are issued in respect of registration of open plots or structures in any Panchayat, Municipality or Municipal Corporation including GHMC:

i. Plot in approved/authroised layouts only shall be registered. Only the plots in layouts approved as per law by the competent authority and plots which are regularised under LRS (Layout regulatisation Scheme) schemes issued by the Government from time to time can be registered. Plots in unauthorised layouts shall not be registered even though the same plot was registered earlier.

ii. Authorised Structures only shall be registered. Hosues, buildings, apartments (flats) or any structures shall be registered only if they have the approval/permission from the competent authority and on the registered document it should be clearly

mentioned that the registration is in accordance with the sanctioned building plan.

Registering authority shall not register any part of a building or structure beyond the approved sanctioned plan. Earlier registration of the structure will not make it registerable now. The structures which have proceedings under BRS (Building Regularisation Scheme)/BPS (Building Penalisation Scheme) schemes issued by the Government from time to time can be registered. However, existing buildings in Grama Kantam can be registered as per provisions of Telangana Panchayat Raj Act, 2018.

4. Persons seeking registration of properties shall be asked by the Registering Authority to produce relevant sanction orders/approvals from the competent authority at the time of presentation of the documents.

5. The above instructions are issued for strict compliance and shall come into force with immediate effect. Any violation of instructions shall invite stringent disciplinary action.”

(a) The clarification to the Memo No.G2/257/2019 dated 26.08.2020 vide Memo No.G2/257/2019 dated 29.12.2020 issued by the C&IG reads as under:

“1) In the reference cited, certain instructions have been issued with regard to registration of plots and structures. Certain difficulties have been

encountered by public and several representations have been received in this regard.

2) In order to obviate any hardship relating to registration of documents, after careful consideration of the relevant provisions of law and circumstances, the following clarifications are issued, in partial modification of the instructions cited under reference above:

i) Registration can be taken up in respect of open plots/structures, if the same has been acquired by the present owner through a valid registered document earlier.

ii) However, no "new plot" shall be registered unless it has been approved by the competent authority or is in an authorised layout. New plot would mean a fresh plot which is being brought for registration for the first time or being sold by developers for the first time.

iii) As clarified earlier, there is no restriction on registration of plots in authorised layouts, plots regularised under earlier LRS Schemes and buildings/structures covered under earlier BPS/BRS/ Schemes.

3) The sub-Registrars may follow the above instructions scrupulously.

4) The District Registrars & DIsG shall ensure that the above instructions are implemented scrupulously."

4. The Memo No.G2/257/2019 dated 26.08.2020 issued by the C&IG, and the letter No.45/TP/NMC/ 2019 dated 01.11.2019 issued by the Municipal Commissioner were under challenge in W.P. No.9248 of 2021 which was allowed by a learned Division Bench of this Court by the order dated 23.08.2021. The learned Division Bench declared action of the Sub Registrar, Quthbullapur, Ranga Reddy District in refusing to receive, process, register and release the sale deed presented by the petitioner therein in respect of a residential flat on the grounds of the letter No.45/TP/NMC/2019 dated 01.11.2019 and Memo Nos.G2/257/2019 dated 26.08.2020 and dated 29.12.2020 and that subject property is part and parcel of the lands covered under C.S. No.14 of 1958 (not relevant in the present case), as arbitrary, illegal, without any jurisdiction, contrary to the provisions of the Registration Act, 1908 and in violation of Article 14 of the Constitution of India, and a consequential direction was given to the Sub Registrar to receive, register and release the sale deed presented by the petitioner therein in respect of the property therein without reference to the letter bearing No.45/TP/NMC/2019 dated 01.11.2019 issued by the Commissioner Municipal Corporation, Nizampet and the Memo Nos.G2/257/2019 dated 26.08.2020.

5. The Nizampet Municipal Corporation and others filed Special Leave to Appeal (C) No.19695 of 2021 before the Hon'ble Supreme Court wherein the order dated 13.12.2021 was passed which reads as under:

“Issue notice on interim relief and in Special Leave Petition, returnable in five weeks.

Respondent is granted three weeks time to file counter affidavit, petitioner shall have two weeks’ time thereafter to file rejoinder affidavit.”

6. Despite the learned Division Bench passing the order dated 23.08.2021 in W.P. No.9248 of 2021 which operates *in rem*, several documents presented before the concerned Sub Registrar offices are not being entertained on the grounds of afore-referred Memo Nos.G2/257/2019 dated 26.08.2020 and 29.12.2020 issued by the C&IG, and the Letter No.45/TP/NMC/2019 and similar letters, if any, issued by the Municipal Commissioners. Huge number of about more than 5,000 cases have been filed before this Court challenging the action of the concerned Sub Registrars in the State in not entertaining the sale deeds / gift deeds presented for registration based on the aforesaid Memos issued by the C&IG and the letters issued by the concerned Municipal Commissioners to the Sub Registrars. Since the order dated 23.08.2021 passed by the learned Division Bench in W.P. No.9248 of 2021 had not been stayed or suspended by the Hon’ble Supreme Court vide order dated 13.12.2021 in S.L.P. (Civil) No.19695 of 2021, this Court did not have any alternative but to pass interim orders in all such writ petitions directing the concerned Sub Registrars to receive, process, register and release the documents submitted before them subject to outcome of above S.L.P. For the

sake of convenience, the order passed by this Court in one such matter i.e. W.P. No.1077 of 2022 dated 06.01.2022 is extracted below:

“Having regard to the orders passed by the Division Bench of this Court in W.P. No.9248 of 2021 dated 23.08.2021, the official respondents are directed to receive, process, register and release the sale deed/s presented by the petitioner/s, without reference to Memo No.G2/257/2019 dated 26.08.2020 and Memo No.G2/257/2019 dated 29.12.2020 as expeditiously as possible, preferably within a period of four (4) weeks from the date of receipt of a copy of this order, subject to the petitioner/s complying with the provisions of the Indian Registration Act, 1908, and Indian Stamps Act, 1899.

However, any such registration shall be subject to final result of the writ petition.

Registry shall make an endorsement on the writ petition to the effect that the same shall not be permitted to be withdrawn.”

7. This Court has taken cognizance of the huge number of cases being filed on day-today basis and difficulties expressed by the learned counsel for the petitioners that certified copies of the orders are not being issued by the concerned Section of the Court even for more than 10 - 15 days of orders being passed. There is every possibility of this Court being flooded with many more thousands of similar cases. In order to obviate the difficulties and to ensure that

hardship is not faced by the parties, many of whom have entered into transactions worth lakhs and crores of rupees and taking judicial notice of the situation that the parties are driven to the Courts aggrieved by the action of the registering authorities in not receiving / processing transfer documents presented for registration/s in spite of the order dated 23.08.2021 in W.P. No.9248 of 2021 passed by a learned Division Bench of this Court; that routine interim orders have been passed by this Court, pursuant thereto documents have been registered and released; this Court was of the opinion that all these matters can be finally disposed of since the main grievance of the parties regarding non-registration of documents stood redressed. In the backdrop of above facts and circumstances, this Court requested Mr. Pavan Kumar, learned Assistant Government Pleader for Revenue, to take necessary instructions from the learned Advocate General and report this Court as to whether general instructions can be issued to the registering authority to entertain documents presented for registration with a condition that registration shall be subject to outcome of SLP (Civil) No.19695 of 2021 pending before the Hon'ble Supreme Court.

8. Mr. B.S. Prasad, learned Advocate General, assisted by Mr. Harender Pershad, learned Special Government Pleader, appeared before this Court and requested for some time so that the matter can be discussed at the highest level in the Government and some

arrangements are made to ensure that the citizens at large are not put to hardship due to the prevailing stalemate.

9. Having taken instructions from the Government, the learned Advocate General has submitted a brief note before this Court. In the said note, the learned Advocate General has brought to the notice of this Court that a Division Bench comprising of the then Hon'ble the Chief Justice and myself has refused to interfere with the Memos dated 26.08.2020 and 29.12.2020 on the ground that prohibition is only for registration of plots / structures by the developers in the unauthorized layout/s or structures. It was further pointed out by the learned Advocate General that amendments to the Panchayat Raj Act and the Municipal Act clearly prohibit registration in unauthorised layouts and structures and the registering officers are duty bound to follow the statutory provisions regardless of the Memo dated 26.08.2020 issued by the Commissioner and Inspector General of Registration and Stamps, Telangana. That the Division Bench which passed order in W.P. No.9248 of 2021 held that the Commissioner, Municipal Corporation, Nizampet has no authority to issue letter No.45/TP/NMC/2019 dated 01.11.2019 and there is a procedural error and consequently directed the concerned Sub Registrar to receive, register and release the sale deed presented by the petitioner therein without reference to the said letter and the Memo dated 26.08.2020.

10. As noted above, SLP (Civil) No.19695 of 2021 was filed by the Government on 27.10.2021 and the same is pending before the

Supreme Court. The learned Advocate General submitted that all the matters pending before the High Court may be disposed of directing that the concerned Sub Registrars may examine the documents and take necessary further action in accordance with law including the Memos issued by the Commissioner and Inspector General of Registration and Stamps, Telangana, and the Letters issued by the Municipal Commissioners, and the Panchayat Raj and Municipal Acts in terms of the orders in W.P. (PIL) No.210 of 2020 dated 28.07.2021 and outcome of SLP (Civil) No.19695 of 2021.

11. In order to give reasonable opportunity of hearing to the learned counsel appearing for the petitioners, the matters were listed on 07.02.2022

12. Mr. Mayur Reddy, Mr. S. Sridhar, Mr. I.V. Radha Krishna Murthy, Mr. Alladi Ravinder, Mr. Amarender Reddy, Mr. N. Sreedhar Reddy, Mr. Mehar Srinivas Rao and Mr. M.V. Hanumanth Rao, learned counsel appearing on behalf of the petitioners herein and in similar other writ petitions, submitted that the order passed by the learned Division Bench in W.P. No.19695 of 2021 dated 23.08.2021 is an order *in rem* and no stay is granted by the Hon'ble Supreme Court in the appeal preferred by the Government. Hence, the action of the concerned Sub Registrars in refusing to receive, process, register and release the documents presented by the petitioners and various private parties is illegal and unsustainable.

(a) The learned counsel further submitted that general directions may be issued to the Sub Registrars concerned to entertain the documents, however, subject to outcome of S.L.P. (Civil) No.19695 of 2021 pending before the Hon'ble Supreme Court.

13. Mr. Harender Pershad, learned Special Government Pleader, has submitted that in view of the order dated 28.07.2021 in W.P. (PIL) No.210 of 2020 by another Division Bench, the concerned Sub Registrars may be permitted to refuse the documents that may be presented for registration relating to unauthorised layouts and structures.

(a) The learned Special Government Pleader has submitted that taking advantage of the order passed by the Division Bench in W.P. No.9248 of 2021 dated 23.08.2021, several parties have now started presenting documents for registration without showing minimum road access. He further submitted that minimum road of width of 30 feet is required to be maintained as per the relevant statutory rules. But, plots with less than 30 feet road width are being presented for registration, as such, orders may be passed to protect the interest of the State and also to ensure that gullible purchasers are not put to loss and hardship at future point of time.

(b) It is also submitted that all registrations may be treated as provisional and an endorsement may be permitted to be made on the

document/s to ensure that subsequent prospective purchaser/s is / are not put to loss in any manner.

14. In reply, Mr. B. Mayur Reddy, learned counsel appearing for the petitioners, has submitted that the order of the Division Bench in W.P. No.9248 of 2021 is not stayed by the Hon'ble Supreme Court, as such, no condition can be incorporated for treating the registration as provisional.

15. Having considered the submissions of Sri B.S. Prasad, learned Advocate General, Sri Harender Pershad, learned Special Government Pleader, Mr. B. Mayur Reddy, learned counsel for the petitioners, and other counsel appearing for the private parties, this Court is of the opinion that final orders can be passed in all these matters as the same would subserve public interest. The learned Advocate General has assured this Court that if the final orders are passed, it will be ensured that the same would be made applicable to all the parties irrespective of their approaching this Court or not and general instructions will be issued to all the registering authorities in the State to entertain registrations in terms of W.P. (PIL) No.210 of 2020 dated 28.07.2021 and subject to outcome of SLP (Civil) No.19695 of 2021.

16. It is an undeniable fact that sale of properties is a continuing process; several parties enter into sale and other transactions for their personal necessities and also as a commercial

activity; it would be just and proper to issue general directions to the Government / registering authorities to entertain registration of documents, however, in terms of the order dated 28.07.2021 in W.P. (PIL) No.210 of 2020 and subject to outcome of SLP (Civil) No.19695 of 2021.

17. Mr. Harender Pershad, learned Special Government Pleader, has also made a specific request that clarification may be given to the Government to refuse registration of documents presented in respect of the layouts where width of the roads is less than 30 feet and further where plots / structures are made in F.T.L. and Buffer Zone areas. However, such request of the learned Special Government Pleader is not being considered as the matter is *sub judice* before the Hon'ble Supreme Court, and this Court is not inclined to make any observations in that regard in the light of the orders passed by the learned Division Bench of this Court in W.P. No.9248 of 2021.

18. For the aforesaid reasons, these writ petitions are disposed of with the following directions without any order as to costs:

- (i) Henceforth, all the Sub Registrars in the State shall register the documents of sale, transfer and gift etc., presented for registration without reference to the Memo Nos.G2/257/2019 dated 26.08.2020 and 29.12.2020 issued by the Commissioner and Inspector General of Registration and Stamps, Telangana; Letter No.45/TP/NMC/2019 dated 01.11.2019 issued by the Commissioner, Municipal Corporation, Nizampet to the

Sub Registrar, Quthbullapur, Ranga Reddy District, and similar letters, if any, issued by the various Municipal Commissioners in the State;

(ii) the Sub Registrars in the State shall make an endorsement at the reverse side of the first page of the document referred in direction No.(i) that registration so done is subject to outcome of SLP (Civil) No.19695 of 2021 filed by the State Government before the Hon'ble Supreme Court; and

(iii) in case, it is found that there is any violation of law like plots / lands / structures being sold form part of F.T.L. and Buffer Zone / Plots having less than 30 feet road width access, the Sub Registrar shall make an endorsement informing / cautioning the purchasers that risk is involved in purchase of such plots; such transactions are hit by relevant statutory provisions; that registration of the same is subject to outcome of orders of the Hon'ble Supreme Court in SLP (Civil) No.19695 of 2021. To that effect, an endorsement shall be made on the reverse side of the first / second page of the document and also in the encumbrance record, website etc.

As a sequel thereto, miscellaneous petitions, if any, pending in these writ petitions stand closed.

B. VIJAYSEN REDDY, J

February 18, 2022.

NOTE:

As observed in the order, more than 5,000 similar cases are filed and pending before this Court and a common order is required to be passed in all those matters. However, to save huge stationery, this order is passed only in the present writ petitions. The remaining matters will be disposed of separately in terms of this common order as covered matters.

(BO) PV