

(2023) 04 TEL CK 0078
In the Telangana High Court
Case No : Writ Petition No. 30453 Of 2013

K.Shanker

APPELLANT

Vs

Tsrtc And Others

RESPONDENT

Date of Decision : 25-04-2023

Acts Referred:

Citation : (2023) 04 TEL CK 0078

Hon'ble Judges : Surepalli Nanda, J

Bench : Single Bench

Advocate : S.Satyanarayana Rao

Judgement

1. Heard Sri Dammalapati Srinivas, the learned senior designated counsel appearing on behalf of the Petitioner and the learned Special Government Pleader appearing on behalf of Respondent No.2.

2. Vide note of the Hon'ble The Chief Justice dated 12.06.2023 W.P.Nos.817 of 2023, 38329 of 2022 and 39932 of 2022 had been allotted to this Court and on 28.08.2023 W.P.No.817 of 2023, and W.P.No.38329 of 2022 and 39932 of 2022 had been listed before this Court.

3. The learned counsel for the Petitioner in W.P.No.38329 of 2022 sought leave of this Court for withdrawal of W.P.No.38329 of 2022 on 28.08.2023 with liberty to pursue W.P.No.39932 of 2022 which was filed by the same Petitioner for the same relief as sought for in W.P.No.38329 of 2022 and accordingly leave was granted by this Court and the interim order dated 27.10.2022 passed in W.P.No.38329 of 2022 also stood vacated.

4. This Writ Petition is filed to issue a Writ of Mandamus, declaring the action of the Respondents herein in not executing the conveyance deed/sale deed and other necessary documents in favour of the Petitioner in respect of land admeasuring Ac.0-16 Gts. (1936 Sq. Yards) situated in Survey No. 136/P at Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, pursuant to issuance of G.O.Ms. No.85 dated 17.08.2022 and Proceeding No.LC1/3492/2005

dated 27.09.2022 allotting the land to the Petitioner, as illegal, arbitrary, unconstitutional and in violation of principles of natural justice and equity and also consequently, direct the Respondents to execute the conveyance/sale deed and other necessary documents which are legally required for affecting valid transfer of land in favour of the Petitioner, in the interest of justice.

5. The case of the Petitioner, in brief, as per the averments in the affidavit filed in support of the present writ petition is as follows:

a) The Petitioner is a Company incorporated under the Companies Act, 1956 and it is one of the renowned hospitals in the Hyderabad City by the name "AIG Hospitals". The Petitioner is providing various health care services to the general and needy public through its branches in Somajiguda and Gachibowli.

b) Apart from the above mentioned, the Petitioner is also providing teaching training, research and community care.

c) As per Revenue Records, the land in Sy.No. 136 to an extent Ac. 120-01 gts., of Gachibowli Village is recorded as "Gairan Sarkari" i.e., Government Land and the same is under possession of State Government. The part of the lands in Sy. No. 136 of Gachibowli Village was alienated to various organizations like HUDA, BC Corporation, Traffic Police Station, AIG Hospital etc., and also assigned to weaker sections.

d) While, the State Government had come with a proposal to allot the portion of the vacant land in Survey No. 136 abutting to the existing AIG Hospitals, Gachibowli, measuring 1936 sq. yards (i.e., Ac.0-16 Gts.) in Sy No. 136/P of Gachibowli Village, Serilingampally Madnal, Ranga Reddy District and the Petitioner had shown its interest to acquire such land by way of allotment to expand its health care services to the general public.

e) The Government vide G.O.Ms.No.85 Revenue (Assn. II) Dept, dated 17.08.2022 has assigned land to an extent of 1936 sq. yards (Ac.0-16 gts.) in Sy.No. 136/P of Gachibowli Village, Serilingampally Mandal (Subject Land) in favour of Petitioner on payment of market value at Rs.95,000/- per Sq. yard. The subject land is located adjoining to the land originally assigned to Petitioner, on which the Hospital is presently located and was assigned free from any encroachments and encumbrances.

f) Thereafter, through Memo No. LC1/3492/2005, dated 08.09.2022, the Petitioner was requested to remit an amount of Rs. 18,39,20,000/- (Rupees Eighteen Crores Thirty-Nine lakhs and Twenty Thousand only) at Rs.95,000/- per Sq. Yard, in the Government treasury under the relevant Head of account towards payment of the market value of the land cost to an extent of Ac.0-16 gts (1936 Sq. Yards) in Sy.No. 136/P of Gachibowli and to submit original challan. Accordingly, same has been remitted through SBI, Gruhakalpa Branch, Nampally, Hyderabad vide Challan No.6201963323, dated 15.09.2022 towards land cost.

g) The District Collector, Rangareddy Dist., i.e., 2nd Respondent herein vide

Proceeding No. LC1/3492/2005, dated 27.09.2022 has issued orders to handover the physical possession of the subject land and the same was handed over to the Petitioner on 30.09.2022 under cover of Panchanama. Subsequent to putting the Petitioner into the possession of the land, some unknown person by name Akthar Shaikh had tried to interfere into the possession of the Petitioner falsely claiming that the land admeasuring 720 sq. yards is a part and parcel of the allotted land by showing the House No. 1-58/5/A/5 to 1-58/5/A/10 of Gachibowli Village and further alleged claims that his vendors are assignees of the subject land.

h) Furthermore, the abovementioned Akthar Shaikh has also filed a writ petition before this Court in W.P. No. 38329 of 2022 challenging the Proceedings No. LC1/3492/2005 dated 27.09.2022 issued by the 2nd Respondent and obtained an interim order dated 13.10.2022 wherein the 2nd Respondent was directed not to give any affect to the Proceedings No.LC1/3492/2005 dated 27.09.2022. In the said writ petition, the Petitioner has been arrayed as one of the Respondent.

i) Moreover, Akthar Shaik had filed another writ petition in W.P No.39932 of 2022 once again challenging the Proceedings No. LC1/3492/2005 dated 27.09.2022 issued by the 2nd Respondent and this court was not inclined to continue the interim orders passed earlier in W.P No.38329 of 2022 and the same came to be lapsed.

j) Through Proceedings No. LC1/3492/2005 dated 27.09.2022, it had been ordered to handover the physical possession of the land to the Petitioner and accordingly, the same was handed over to the Petitioner on 30.09.2022 under cover of Panchanama. The Petitioner had invested huge amounts i.e., Rs.18,39,20,000/- and the same was paid to the Respondents, pursuant to the Proceedings No.LC1/3492/2005 dated 27.09.2022 and despite the lapse of more than three months, the Respondents are not coming forward to complete the sale transaction by executing the conveyance/sale deed in favour of the Petitioner, enabling the Petitioner to develop the land for extending health care services.

k) The Petitioner through its representatives have been visiting the offices of the Respondents requesting to complete the sale transaction by executing the conveyance/sale deed in favour of the Petitioner and any other formalities as prescribed under law. But, the Respondents are dodging the matter on one pretext or the other. Hence, this Writ Petition.

6. The learned Special Government Pleader referred to the Counter filed in W.P.No.38329 of 2022 and put forth his submissions in W.P.No.817 of 2023 and contended that appropriate orders could be passed by the Court. The relevant portion of the said counter affidavit, in particular, paras 4.1 to 4.7 read as under:

"4.1 It is submitted that, as per Revenue Records, the land in Sy.No.136 to an extent Ac.120-01 gts, of Gachibowli Village is recorded as "Gairan Sarkari" i.e, Government Land and same is under possession of Government.

4.2 It is submitted that, part of the lands in Sy.No.136 of Gachibowli Village was

alienated to various organizations like HUDA, BC Corporation, Traffic Police Station, AIG Hospital etc., and also assigned to weaker sections. The land in Sy No.136 of Gachibowli village is recorded in 22-A i.e., Prohibitory Register. It is also necessary to bring to the notice of the Hon'ble High Court that, in the year 1984 assignment pattas were issued to the poor people in Sy No.136 of Gachibowli Village, Serilingampally Mandal recorded as "Government Land" to about 250 people and it is clearly 3 Kms away from the land allotted to AIG Hospital.

4.3. It is respectfully submitted that the present Writ Petitioner is claiming the subject land through alleged Patta holders and even otherwise the said subject land is far away from the land alienated to 6th Respondent Hospital. The land alienated to the 6th Respondent Hospital and others is Government land and free from all encumbrances and vacant as evidenced from the Google maps. They are filed as annexures. The distance between both lands is 2 to 3 KMs. A duly demarcated sketch is being enclosed to clearly indicate the land alienated to various organisations and the land in respect which Pattas were issued in 1984. Hence writ petition has to be dismissed on this ground alone.

4.4 It is submitted that the Government vide G.O.Ms.No.85 Revenue (Assn.II) Dept, dt:17.08.2022 has assigned land to an extent of 1936 sq. yards (Ac.0-16 gts) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal (Subject Land) in favour of M/s. Asian Institute of Gastroenterology Private Limited i.e, 6th Respondent on payment of market value @ Rs.95,000/- per Sq. yard (Rupees Ninety Five Thousand only per Sq. Yard), subject to usual terms & conditions.

The writ subject land is located adjoining to the land originally assigned to Asian Institute of Gastroenterology Private Limited (6th Respondent), on which the Hospital is presently located and was assigned free from any encroachments and encumbrances.

4.5. It is submitted that thereafter, through Memo No.LC1/3492/2005, dt:08.09.2022, 6th Respondent was requested to remit an amount of Rs.18,39,20,000/-(Rupees Eighteen Crores Thirty Nine lakhs and Twenty Thousand only) @ Rs.95,000/- per Sq. Yard, in the Government treasury under the relevant Head of account towards payment of the market value of the land cost to an extent of Ac.0-16 gts (1936 Sq. Yards) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, Rangareddy District and to submit original challan. Accordingly, the 6th Respondent has remitted an amount of Rs.18,39,20,000/- (Rupees Eighteen Crores Thirty Nine lakhs and Twenty Thousand Only) through SBI, Gruhakalpa Branch, Nampally, Hyderabad vide Challan No.6201963323, dated 15.09.2022 towards land cost to an extent of Ac.0-16 gts (1936 Sq.Yards) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, Rangareddy District.

4.6. It is submitted that, the District Collector, Rangareddy Dist., i.e., 2nd Respondent herein vide Proceeding No.LC1/3492/2005, dated:27.09.2022 has

issued orders to handover the physical possession of the Government Land to an extent of 1936 sq. yards (Ac.0-16gts.) in Sy.No.136/P of Gachibowli Village and the same was handed over to M/s.Asian Institute of Gastroenterology Private Limited on 30.09.2022 under cover of Panchanama.

4.7. It is submitted that the Petitioner is said to have purchased a house bearing No.1-58/5/A/5 to 1-58/5/A/10 of Gachibowli village and the Petitioner claims that his vendors are assignees of the subject land. But the House numbers mentioned above do not pertain to the subject land as the land is totally vacant till date and there were no structures existing at any point of time. The Google maps filed will evidence the falsity of averments of writ petitioner."

PERUSED THE RECORD :

7. G.O.Ms.No.85, dated 17.08.2022 issued by the Government of Telangana, Revenue (ASSN.II) Department, reads as under :

"In the circumstances as reported by the Collector, Ranga Reddy District and as recommended by the Chief Commissioner of Land Administration, TS., Hyderabad vide references 3rd and 4th read above, respectively, Government, after careful examination of the matter, hereby order for alienation of Government land to an extent of Ac.0.16 gts (1963 sq. yards) situated in Sy.No.136/P at Gachibowli (v), Serilingampally (M), Ranga Reddy District in favour of M/s Asian Institute of Gastroenterology Pvt. Ltd. On payment of market value of Rs.95,000/- per sq. yards subject to usual terms and conditions laid under BSO-23 and utilization of land as per BSO-24.

2. The Chief Commissioner of Land Administration, Telangana State, Hyderabad and the Collector, Ranga Reddy District shall take further necessary action in the matter, accordingly."

8. Proceedings No.LC1/3492/2005, dated 27.09.2022 of the Collector, Ranga Reddy District, in particular, relevant portion, reads as under :

"Accordingly, through the reference 3rd read above, the Chairman & Managing Director, M/s.Asian Institute of Gastroenterology Pvt. Ltd., Gachibowli, Hyderabad has been requested to remit an amount of Rs.18,39,20,000/- (Rupees Eighteen Crores Thirty Nine lakhs and Twenty Thousand only) @ Rs.95,000/- per Sq. Yard, in the Government treasury under relevant Head of account towards payment of market value of the land cost to an extent of Ac.0-16 gts (1936 Sq.Yards) in Sy.No.136/p of Gachibowli Village, Serilingampally Mandal, Rangareddy District and to submit original challan.

DISCUSSION AND CONCLUSION:

DISCUSSION :

9. It is the specific case of the Petitioner that the Petitioner is a Company incorporated under the Companies Act, 1956 and it is one of the renowned hospitals in the Hyderabad City and being well known by the name "AIG

Hospitals” and is providing various health care services to the general and needy public through its branches in Somajiguda and Gachibowli. It is further the case of the Petitioner that the land in Sy.No.136 to an extent of Ac.120.01 gts., of Gachibowli Village is recorded as Gairan Sarkari i.e., government land and the same is under possession of State Government and the government vide G.O.Ms.No.85 Revenue (Assn.II) Department, dated 17.08.2022 had alienated land to an extent of Ac.0.16 gts., (1936 sq. yards) situated in Sy.No.136/P at Gachibowli Village, Serilingampally Mandal in favour of Petitioner herein on payment of market value of Rs.95,000/- per square yard. It is further the case of the Petitioner upon the Petitioner remitting an amount of Rs.18,39,20,000/- for the alienated government land vide proceedings No.LC1/3492/2005, dated 27.09.2022 of the 2nd Respondent herein, orders have been passed by the 2nd Respondent directing the Tahsildar, Serilingampally Mandal to demarcate the subject land and handover the physical possession of the subject land to the Petitioner herein duly showing the boundaries under cover of panchanama. It is further the case of the Petitioner that one Akthar Shaikh tried to interfere into the possession of the Petitioner falsely claiming that the land admeasuring 720 sq. yards is part and parcel of the allotted land by showing the H.No.1-58/5/A/5 to 1-58/5/A/10 of Gachibowli Village, and further falsely claiming that his vendors are assignees of the subject land. Misrepresenting the true facts and suppressing material facts the said Akthar Shaikh approached the High Court and filed two writ petitions i.e., W.P.No.38329 of 2022 and W.P.No.39932 of 2022 challenging the proceedings No.LC1/3492 /2005, dated 27.09.2022. It is further the case of the Petitioner that the 2nd Respondent herein had filed a detailed counter affidavit in W.P.No.38329 of 2022 wherein the 2nd Respondent had categorically stated that the said Akthar Shaikh who is the Petitioner in W.P.No.38329 of 2022 and W.P.No.39932 of 2022 has no right or title over the subject land allotted to the Petitioner herein and by relying on certain fabricated documents which are contrary to the Government records is seeking to illegally usurp the government land which had been allotted to the Petitioner herein vide G.O.Ms.No.85, dated 17.08.2022. It is further the case of the Petitioner that the possession of the subject land was directed to be handed over to the Petitioner herein vide Proceedings No.LC1/3492/2005, dated 27.09.2022 of the 2nd Respondent herein but inspite of lapse of more than 11 months since the date of handing over the possession to the Petitioner on 30.09.2022 under cover of panchanama yet the Respondents herein have not come forward to complete the sale transaction by executing the conveyance/Sale Deed in favour of the Petitioner enabling the Petitioner to develop the land for extending health care services. It is further the grievance of the Petitioner that the Petitioner had invested huge amounts i.e., Rs.18,39,20,000/- which was paid to the Respondents pursuant to the proceedings dated 27.09.2022 issued by the 2nd Respondent herein, but however, the Respondents are not coming forward to complete the sale transaction by executing the conveyance/sale deed in favour of the Petitioner, hence aggrieved by the same Petitioner approached the Court by filing the present writ petition seeking a direction directing the Respondent to

execute the conveyance/sale deed which are legally required for effecting valid transfer of the subject land in favour of the Petitioner herein.

10. A bare perusal of the detailed counter affidavit filed in W.P.No.38329 of 2022 by the 2nd Respondent herein clearly indicates that the said Akthar Shaikh had no right or title over the subject land allotted to the Petitioner herein and it is in fact specifically averred in the counter affidavit filed by the 2nd Respondent in W.P.No.38329 of 2022 that the Petitioner had indulged in fabrication of documents with an intention to usurp government land allotted to the Petitioner herein. The detailed counter affidavit filed by the 2nd Respondent in W.P.No.38329/ 2022 and in particular para 4 i.e., 4.1 to 4.16 and paras 11, 12, 13 and 15 clearly indicate that the Petitioner in W.P.No.38329 /2022 had filed the said writ petition on false, frivolous and concocted statements by relying on the fabricated documents and it is on this ground alone the 2nd Respondent had pleaded in the counter affidavit filed in W.P.No.3832 for dismissal of W.P.No.38329/2022.

11. The learned Special Government Pleader appearing on behalf of the Respondents would submit that in view of the pendency of W.P.No.38329 of 2022 and W.P.No.39932 of 2022 and in particular the orders of the Court dated 27.10.2022 passed in W.P.No.38329 of 2022 directing the Respondents not to give effect to the impugned proceedings dated 27.09.2022 by altering the aforesaid property and also by making any construction, the Respondents could not act diligently in effecting valid transfer of land in favour of the Petitioner and submitted that appropriate orders could be passed by the Court.

CONCLUSION :

12. A bare perusal of the G.O.Ms.No.85, dated 17.08.2022 issued in favour of the Petitioner herein clearly indicates the fact of alienation of government land to an extent of Ac.0.16 gts., (1936 sq. yds) situated in Sy.No.136/P at Gachibowli Village, Serilingampally Mandal in favour of the Petitioner herein on payment of market value of Rs.95,000/- per sq. yard. It is also borne on record that vide Office Memo dated 08.09.2022 of the District Collector Office, the Petitioner herein had been requested to remit an amount of Rs.18,39,20,000/- @ Rs.95,000/- per sq. yard in the government treasury towards payment of market value of the land cost to an extent of Ac.0.16 gts., (1936 sq. yards) in Sy.No.136/P of Gachibowli Village, Serilingmapally Mandal, Ranga Reddy District and to submit original challan and in response to the same the Petitioner herein vide original challan No.6201963323, dated 15.09.2022 remitted an amount of Rs.18,39,20,000/- through the SBI, Gruhakalpa, Nampally, towards land cost to an extent of Ac.0.16 gts., (1936 sq. yards) in Sy.No.136/P of Gachibowli Village, Serilingmapally Mandal, Ranga Reddy District, which was on payment of market value in favour of the Petitioner herein i.e., M/s. Asian Institute of Gastroenterology Pvt. Ltd. A bare perusal of the proceedings dated 27.09.2022 of the 2nd Respondent vide No.LC1/3492/2005, indicates that the 2nd Respondent referring to all the above said facts had issued orders to the

Tahsildar, Serilingampally Mandal, directing demarcation of the vacant, unencumbered government land to an extent of Ac.0.16 gts., (1936 sq. yards) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, and to handover the physical possession to the Chairman of M/s. Asian Institute of Gastroenterology Pvt. Ltd., i.e., the Petitioner herein duly showing the boundaries under cover of panchanama and the record further indicates that the subject land was handed over to the Petitioner on 30.09.2022 under cover of panchanama.

13. It is true that one Akthar Shaikh had filed two writ petitions in W.P.No.38329 of 2022 and W.P.No.39932 of 2022 challenging the proceedings No.LC1/3492/2005, dated 27.09.2022, but the said Akthar Shaikh however had not challenged G.O.Ms.No.85, dated 17.08.2022 pertaining to alienation of the subject land in favour of the Petitioner herein.

14. This Court however, at the request of the counsel for the writ petitioner in W.P.No.38329/2022 vide orders dt. 28.08.2023 duly considering the fact as borne on record and also the representation of the counsel on record that the very same petitioner filed two writ petitions i.e., W.P.No.39932 of 2022 and W.P.No.38329 of 2022 for the same relief i.e., to issue a writ of mandamus to declare the impugned proceedings No.LC1/3492/2005, dated 27.09.2022 issued by the 2nd Respondent allotting 1936 sq. yards in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District to the Petitioner herein and the learned counsel appearing on behalf of the Petitioner further requested for grant of permission for withdrawal of W.P.No.38329 of 2022 with liberty to pursue W.P.No.39932 of 2022 and duly considering the said submissions, this Court vide orders dated 28.08.2023 permitted the Petitioner in W.P.No.38329 of 2022 to withdraw the said writ petition with liberty to pursue W.P.No.39932 of 2022.

15. Taking into consideration of the above referred facts and circumstances of the case and also the fact as borne on record that Government vide G.O.Ms.No.85 Revenue (Assn.II) Department, dated 17.08.2022 issued orders for alienation of government land to an extent of Ac.0.16 gts., (1936 sq. yards) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, in favour of the Petitioner herein i.e., M/s. Asian Institute of Gastroenterology Pvt. Ltd., on payment of market value of Rs.95,000/- per sq. yard subject to usual terms and conditions laid under BSO-23 and utilization of land as per BSO-24 and the said G.O.Ms.No.85 Revenue (Assn.II) Department, dated 17.08.2022 had not been challenged as on date either by the Petitioner in WP No.39932 of 2022, W.P. No.38329 of 2022 or by any one for that matter and further taking into consideration the facts as borne on record that the Government vide G.O.Ms.No.85 Revenue (Assn.II) Department, dated 17.08.2022 has assigned land to an extent of 1936 sq. yards (Ac.0.16 gts) in Sy.No. 136/P of Gachibowli Village, Serilingampally Mandal (subject land) in favour of the petitioner herein on payment of market value Rs.95,000/- per sq. yard. In response to Memo

No.LC1/3492/2005, dated 08.09.2022 issued to the petitioner requesting the petitioner to remit an amount of Rs.18,39,20,000/- (Rupees eighteen crores thirty nine lakhs and twenty thousand only) @ Rs.95,000/-per sq. yards in the Court Treasury towards payment of market value of the land cost to an extent of ac.0.16 gts (1936 sq. yards) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, R.R. District, the petitioner had remitted an amount of Rs.18,39,20,000/- through SBI, Gruhakalpa Branch, Nampally, Hyderabad vide challan No.6201963323, dated 15.09.2022 towards the land cost to an extent of Ac.0.16 gts (1936 sq. yards) in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District. The District Collector, Ranga Reddy District, the 2nd respondent herein vide proceeding No.LC1/3492/2005, dated 27.09.2022 has issued orders to hand over the physical possession of the Government land to an extent of 1936 sq. yards (Ac.0.16 gts.) in Sy.No.136/P of Gachibowli Village to the petitioner herein and the same was handed over to the petitioner herein, M/s Asian Institute of Gastroenterology Private Limited on 30.09.2022 under cover of Panchanama.

16. In view of the fact that W.P.No.38329 of 2022 has been dismissed as 'Withdrawn' and the interim order dated 27.10.2022 passed in W.P.No.38329 of 2022 in favour of the Petitioner there under also stood vacated on 28.08.2023, the present Writ Petition No.817 of 2023 is allowed as prayed for and the Respondents are directed to execute the conveyance deed/sale deed and other necessary documents in favour of the Petitioner, within a period of 2 weeks from the date of receipt of copy of the order, in respect of land admeasuring Ac.0.16 gts., (1936 sq. yards) situated in Sy.No.136/P of Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, pursuant to issuance of G.O.Ms.No.85, dated 17.08.2022 and proceeding No.LC1/3492/2005 dated 27.09.2022 of the 2nd Respondent herein directing handing over of physical possession of the subject land to the Petitioner. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.