

(1991) 04 AP CK 0021

In the Andhra Pradesh High Court

Case No : Writ Petition No. 5097 of 1990

Sooni Rustam Mehta and Others

APPELLANT

Vs

Appropriate Authority, Income Tax Department

RESPONDENT

Date of Decision : 26-04-1991

Acts Referred:

Income Tax Act, 1961 — Section 269UC, 269UD(1), 269UE, 269UE(1), 269UF

Citation : (1991) 2 ALT 560 : (1991) 98 CTR 84 : (1991) 190 ITR 290

Hon'ble Judges : M. Jagannatha Rao, J;J. Eswara Prasad, J

Bench : Division Bench

Advocate : C. Ramakrishna, for the Appellant; S.R. Ashok, for the Respondent

Judgement

M. Jagannadha Rao, J.—The petitioners who claimed to be executors under the will of the late Mrs. Z. R. Ranji, have filed the present writ petition for the issue of a writ of mandamus directing the appropriate authority, Income Tax Department, Bangalore (1st respondent), directing him, (i) to make a declaration u/s 269UH(2) of the Income Tax Act, 1961, that the order passed by him on February 16, 1990, stands abrogated with effect from April 1, 1990, and the property stands revested in the petitioners and to grant copies of the said order and also deliver back possession of the premises and further issue a certificate of no objection u/s 269UL(3).

2. The following facts have to be stated : Mrs. Z. R. Ranji who is said to be the owner of the immovable property in Sardar Patel Road, Secunderabad, dies on October 29, 1988. It is said that she had executed a will on May 22, 1987, and appointed the petitioners as executors and had directed them to dispose of the property and distribute the sale proceeds among certain named charities. It is said that the petitioner entered into an agreement of sale dated December 14, 1989, with the third respondent for a consideration of Rs. 15,60,000. Inasmuch as the apparent consideration was above Rs. 10 lakhs, the petitioners submitted the said agreement to the first respondent at Bangalore as required by section 269UC of the Act. By an order u/s 269UD(1), the first respondent ordered the

purchase of the said property by the Central Government for the discounted price of Rs. 15,31,640 and the property stood vested in the second respondent u/s 269UE(1) with effect from February 16, 1990, free from all encumbrances. The petitioners were directed to deliver possession of the property to the second respondent within 15 days from the date of receipt of the said order. At the stage, the petitioners' vendors filed W.P. No. 2978 of 1990 questioning the validity of the said order. It appears that the provisions of the Act relating to compulsory acquisition have been challenged in the said writ petition. That writ petition was admitted on March 8, 1990, and is still pending. Possession of the property was taken by the second respondent on March 22, 1990.

3. It is the case of petitioners that the second respondent had neither tendered the money to the petitioners as required by section 269UG(2) nor deposited the money in accordance with section 269UG(3) and that, therefore, there was no valid deposit as per the provisions of the Act and the property stands revested in the petitioners u/s 269UH(2).

4. The factual position however is that the second respondent obtained the demand draft dated March 29, 1990, and made the required deposit u/s 269UG(3) on March 30, 1990, before the first respondent. While making the said deposit, the second respondent considered that the facts of the case fitted into sub-section (3) of section 269UG. It is the case of the writ petitioners that the conditions mentioned in section 269UG were not present and that, therefore, the deposit made by the second respondent on March 30, 1990, before the first respondent cannot be treated as deposit made u/s 269UG and that, therefore, the provisions of section 269UH(2) in the regard to revesting of the property in the petitioners come into play. Inasmuch as the order dated March 30, 1990, is, therefore, in question, it is necessary to extract the same in full and examine its correctness.

"In this connection, it is pointed out to you that, on the scrutiny of the documents submitted by you it showed that the original will dated May 22, 1987, has not been handed over by you. Further, you have not taken a probate to execute the will of the late Z. R. Ranji. In addition, you have filed a Writ Petition No. 2978 of 1990 challenging -

(1) the provisions of sections 269UG and 169UD and other relevant provisions contained in Chapter XXC of the Income Tax Act.

(2) to quash the order of the appropriate authority dated February 16, 1990, and accompanying communication dated February 16, 1990.

(3) to declare actions taken by respondent Nos. 1 and 2 under Chapter XXC of the Income Tax Act as illegal and invalid,

and made certain averments in the writ petition. Further, the resolution dated December 8, 1989, passed by the executors of the estate of the late Z. R. Ranji, authorising Mrs. Roshan M. Patel and Mr. B. K. Batliwala to carry out and fulfil all

procedural matters concerning the obtaining of necessary permission from the Competent Authority and the Income Tax clearance certificate from the appropriate authorities is on the unstamped paper and no general power of attorney has been executed by the executors in favour of Mrs. Roshan M. Patel and Mr. B. K. Batliwala.

5. In view of the above, as the property is not free from dispute as to the title to receive the amount of consideration, a sum of Rs. 15,31,640 has been paid to the Appropriate Authority, Bangalore, as per provisions of section 269UG of the Income Tax Act."

6. It is that order that is mainly challenged in the writ petition. It is argued by Sri C. Ramakrishna, for the petitioners, that the reasons mentioned in the abovesaid order do not bring the case u/s 269UG of the Income Tax Act and that, therefore, the deposit in question cannot be treated to be an apparent deposit, that it has to be ignored and, therefore, the provisions of section 269UH(2) come into operation.

7. For the purpose of deciding the above question, it is necessary to refer to the provisions of section 269UG of the Income Tax Act in so far as they are material for our purpose :

"269UG. Payment or deposit of consideration. - (1) The amount of consideration payable in accordance with the provisions of section 269UF shall be tendered to the person or persons entitled thereto within a period of one month from the end of the month in which the immovable property concerned becomes vested in the Central Government under sub-section (1), or, as the case may be, sub-section (6), of section 269UE....

(2) Notwithstanding anything contained in sub-section (1), if any dispute arises as to the apportionment of the amount of consideration amongst persons claiming to be entitled thereto, the Central Government shall deposit with the appropriate authority the amount of consideration required to be tendered under sub-section (1) within the period specified therein.

(3) Notwithstanding anything contained in sub-section (1), if the person entitled to the amount of consideration does not consent to receive it, or if there is any dispute as to the title to receive the amount of consideration, the Central Government shall deposit with the appropriate authority the amount of consideration required to be tendered under sub-section (1) within the period specified therein :

8. Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part of the amount of consideration for any immovable property vested in the Central Government under this Chapter to pay the same to the person lawfully entitled thereto.

(4) Where any amount of consideration has been deposited with the appropriate authority under this section, the appropriate authority may, either of its own

motion or on an application made by or on behalf of any person interested or claiming to be interested in such amount, order the same to be invested in such Government or other securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefits therefrom as they might have had from the immovable property in respect whereof such amount has been deposited..."

8. In the present case, the amount of consideration has not been tendered to the person or persons entitled thereto under sub-section (4) of the section 269UG. However, it is the contention of the second respondent that this is a case of deposit of the consideration before the appropriate authority under sub-section (3) of section 269UG. Coming to the said sub-section, it is clear that notwithstanding anything contained in sub-section 269UG, if the person entitled to the amount of consideration does not consent to receive it, or if there is "any dispute" as to the title to receive the amount of consideration, the amount could be deposited with the appropriate authority within the period specified in sub-section (1). It is not the case of either of the parties that the petitioners did not consent to receive the consideration. Therefore, the question will be whether it is a case falling under the second limb of sub-clause (3), viz., "whether there is any dispute as to the title to receive the amount of consideration".

9. If we read the impugned order passed by the second respondent on March 30, 1991, it will be noticed that he had given four reasons. The first reason is that the petitioners have not handed over the original will dated May 22, 1987. The second reason is that the petitioners have not taken probate in respect of the will in question. The third reason is that the petitioners who filed Writ Petition No. 2978 of 1990 challenging (i) the provisions of the Act relating to compulsory acquisition, (ii) questioning the order the appropriate authority dated February 16, 1990, acknowledging vesting of the property and delivery of possession, (iii) to declare that the auction conducted by the authorities under Chapter XXC of the Income Tax Act is illegal and invalid, had made certain averments therein. The fourth reason is that the resolution dated December 8, 1989, passed by the executors of the estate authorising two of them, Messrs. Roshan M. Patel and Mr. B. K. Batliwala, to fulfil all procedural matters concerning obtaining of necessary permission from the competent authority and for obtaining the Income Tax clearance certificate is on unstamped paper and no general power of attorney has been executed by the executors in favour of the said two persons. These are the four reasons given in the impugned order which have been assailed in the writ petition.

10. Before dealing with the main point arising under the fourth reason connected with section 269UG, we shall deal with the first, second and third reasons given in the impugned order.

11. So far as the second reason, viz., that probate has not been obtained is concerned, we are of the view that the same is clearly erroneous in law in view

of the specific provisions of section 213 of the Indian Succession Act, 1925. The testatrix was a Parsi by religion. The will was not executed within the local limits of the ordinary civil jurisdiction of the High Courts at Calcutta, Madras and Bombay but was executed in Hyderabad nor did the will relate to immovable property situate within the original jurisdiction of the said High Courts. Therefore, the provisions of clause (ii) of sub-section (2) of section 213 are attracted and the executors can establish their rights without obtaining a probate of the will. So far as the fourth reason is concerned, the will itself mentions that if, for any reason, any of the executors or more of them is or are not able or available to act, then the remaining executors shall jointly decide on all major matters requiring decision in the course of the administration of the estate of the testatrix. The testatrix further directed as follows :

"However, I hereby direct that any two of my executors (preferably one of them be my niece, Mrs. Roshan Minoo Patel) shall be competent and entitled to carry on the actual routine or day to day administration including taking charge and realisation of my properties, execution of documents, receipts and payments of monies, operation of bank accounts, representation of the estate in all proceedings whether in court, Tribunals, Government office Departments, or elsewhere, etc., etc., and they are hereby authorised and empowered to do so."

12. The resolution passed by the executors on December 8, 1989, which the second respondent refused to accept as it was on unstamped paper is, therefore, nothing but a resolution passed pursuant to the directions in the will itself. The will is a registered one. Therefore, the fact that the resolution is unstamped does not invalidate the authorisation nor is it necessary that any separate general power of attorney should have been executed. We are of the view that the fourth reason given in the impugned order is also erroneous in law on its face.

13. Coming to the third reason, viz., that the original of the will dated May 22, 1987, has not been handed over by the executors, it will be noticed that, in the letter dated March 23, 1990, exhibit P-15, the executors informed the office of the second respondent that the will is a registered will and that the original is not with them. They further stated :

"You may take inspection of the same with the Sub-Registrar of Assurances, Near Muzzam Jahi Market, where it was executed."

It is not denied that a xerox copy of the said will given to the executors by the Sub-Registrar was also submitted to the Department. But the authorities insisted on the original being submitted. They did not dispute that the xerox copy was a true copy of the certified copy given by the Registrar to the executors. It will be noticed that the certified copy of the will clearly reproduces the following endorsement of the Registrar of Assurances :

"Having satisfied myself that the testator hereof is dead, the sealed cover containing this will is opened on the application and in the presence of Roshan M. Patel."

".... This will has been copied in Book 3 as No. 211 of 1988, Vol. No. 53, at pages 110 to 116, dated November 7, 1988."

14. It will be noticed that the will has been deposited by the testatrix under the provisions of Part IX of the Indian Registration Act, 1908. Section 42 deals with deposit of wills; section 43 with the procedure of deposit Section 45 deals with proceedings on death of the testator. Section 45 states that if, on the death of testator who has deposited a sealed cover u/s 42, application be made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and at the applicant's expense, cause the contents to be copied into his book No. 3. Sub-section (2) of section 45 is important and reads as follows :

"When such copy has been made, the Registrar shall redeposit the original will."

15. It is, therefore, clear from the endorsement of the Sub-Registrar in the certified copy issued to the executors that the will is a will deposited u/s 42 and was later opened u/s 44 and was redepicted u/s 45(2) of the Registration Act. The petitioners clearly informed the second respondent by their letter dated March 23, 1990, that the original of the will was not with them and that it was open to the authorities to inspect the same at the Registrar's office at Moazzamjahi Market where the will was deposited. Therefore, the reason for non-production of the will is clearly explained to the authorities. The second respondent committed an error of law in thinking that the petitioners could have produced the will.

16. During the course of the arguments, learned counsel for the Department tried to argue that the originals of two other documents dated January 4, 1955, and September 30, 1937, were not produced before the second respondent even by March 26, 1990. But, inasmuch as there is not such doubt raised in the impugned order in regard to the copies of the said documents submitted to the second respondent earlier, we cannot permit counsel to raise such a question for the first time during the arguments. Even in the counter-affidavit filed in this writ petition, it has not been contended that the absence of the originals of these two other documents was the cause for passing the impugned order. For the aforesaid reasons, the first reason, viz., regarding non-supply of the will, also is a clear error of law.

17. The only other reason that remains is the fourth one relating to the filing of the writ petition, W.P. No. 2978 of 1990, wherein the provisions of Chapter XXC of the Act were questioned and also the order dated February 16, 1990, regarding acknowledgment relating to vesting and taking of possession is questioned. In fact, this is a more important question that arises for consideration.

18. Learned counsel for the writ petitioner, Sri C. Ramakrishna, has contended that, in the impugned order, no dispute as to the title to receive the consideration has been discussed. So far as non-production of the original will is concerned we

have already accepted the contention of learned counsel for the petitioners that even if the petitioners wanted to produce it, they could not have done so in view of the provisions of section 42 of the Indian Registration Act. Therefore, on that basis, learned counsel contends that the conditions for making the deposit under sub-section (3) of the section 269UG were not in existence and that, therefore, the second respondent should have tendered the consideration to the petitioners within the time u/s 269UG and that, in the absence of such tender, the revesting u/s 269UH(2) takes place statutorily.

19. On the other hand, it is contended by Sri S. R. Ashok for the Department that the filing of the writ petition with the reliefs mentioned above must be treated as raising a dispute in relation to the entitlement of the petitioners to receive the consideration and that, therefore, the conditions in sub-section (3) of section 269UG are satisfied.

20. Before considering section 269UG, it will be necessary to refer to the provisions of sections 30, 31(2) and 33 of the Land Acquisition Act, 1894, which are somewhat similar to the provisions relating to acquisition under the Income Tax Act. The provisions relating to disputes arising as to the apportionment of the amount of consideration amongst persons claiming to be entitled thereto is somewhat similar to the provisions of section 30 of the Land Acquisition Act. Section 30 uses the words;

"if any dispute arises as to the apportionment of the same".

and these words are similar to those in section 269UG. Similarly, the provisions in sub-section (3) of section 269UG of the Income Tax Act stating that if there is any dispute as to the title to receive the amount of consideration, the Central Government could deposit the amount before the appropriate authority are similar to the latter part of section 31(2) also uses the words :

"if there be any dispute as to the title to receive the compensation".

and these words are similar to those in section 269UG. So far as the manner in which the authority could invest the amount by way of deposit is concerned, the provisions are contained in sub-section (4) of section 269UG and these provisions somewhat correspond to section 33 of the Land Acquisition Act.

21. In this context, it is useful to refer to the relevant rulings under the Land Acquisition Act, 1894.

22. The Supreme Court in *Dr. G.H. Grant Vs. State of Bihar*, held that sections 18(1) and 30 of the Land Acquisition Act empower the Collector to refer a dispute to the court for apportionment of compensation or as to the persons to whom it is payable. While the period is fixed for seeking reference u/s 18, no such period is prescribed u/s 30. Further, u/s 18, the Collector is bound to make a reference while, u/s 30, there is no such obligation and the Collector may require the person raising the dispute to agitate the same in a suit. The Supreme Court also mentioned, so far as section 31 is concerned, as follows (p. 244) :

"Payment of compensation, therefore, u/s 31 to the person declared by the award to be entitled thereto discharges the State or its liability to pay compensation (subject to any modification by the court), leaving it open to the claimant to compensation to agitate his right in a reference u/s 30 or by a separate suit."

23. In our opinion, what is important to note from the above decision is that there is no obligation on the Collector u/s 30 of the Act (i) to refer a matter to the civil court, but he can as well deposit the money u/s 31, and (ii) if he makes such a deposit, instead of referring the matter to the civil court, the parties have to get a declaration from the civil court regarding rights.

24. In the present case, it is contended that so far as sub-section (4) is concerned, there is no power conferred on the Controller for rendering a decision on the question of title. In our view, u/s 1(2) of the Land Acquisition Act in cases where the Collector does not exercise the jurisdiction to refer the matter to the court u/s 30, it is for the parties to obtain the necessary rights declared in a civil court.

25. The main dispute, however, is with regard to the interpretation of the words "if there is any dispute as to the title to receive the amount of consideration" mentioned in sub-section (3) of section 269UG. While it is contended by the petitioners that the dispute must necessarily be raised by another claimant, it is contended for the Department that it is not necessary that the dispute should be raised by a third party for the purpose of sufficient compliance with sub-section (3) of section 269UG. It is also argued for the Department that, in views of the challenge to the provisions of the Act and to the order of vesting by the petitioners by filing the earlier writ petition, viz., W.P. No. 2978 of 1990, they cannot be treated as persons entitled to receive the amount of compensation under sub-section (3).

26. It has been held in *Special Land Acquisition Officer (1) Bombay and Bombay Suburban District Vs. Natverlal Jamnadas Muni*, that the word "dispute" as used in section 30 and in sub-section (2) of section 31 must be given the same meaning and if, however, the word "dispute" is construed as being applicable only where there is more than one party to a dispute but not otherwise, the two sections will not provide as to what should happen when the Collector is unable or unwilling or has omitted to decide the question whether the sole claimant appearing before him is or is not entitled to the compensation. Therefore, in spite of the fact that the natural meaning of the word "dispute" presupposes two persons and section 30 uses the word "persons" in the plural, section 31(2) must be construed as covering the case where the Collector is unable or unwilling or has omitted to decide whether the sole claimant appearing before him is or is not entitled to the property acquired and the compensation therefore. Similarly, it has been held in *State of Madras v. B. V. Subramania Iyer* AIR 1963 Mad 313, that the word "dispute" is used in the context of section 30 in a wide and not in a literal sense and implies any controversy as to title, whether as between the

actual claimants or with respect to a single claim as appearing from the documents made by the Government. We respectfully agree with the abovesaid decisions. We, however, dissent from the contrary view of the Gauhati High Court in *Phongseh Misao Vs. Collector of Land Acquisition and Others*, wherein the learned judges took the views that the word "dispute" mentioned in section 30 of the Land Acquisition Act means a quarrel between two or more rival parties.

27. For the aforesaid reasons, we are of the view that merely because there is no rival claimant to the consideration, section 269UG does not necessarily compel the authority to tender the apparent consideration u/s 269UG of the Act. If the authorities have a bona fide or genuine doubt as to the title of the apparent vendor, it is open to them not to tender the consideration under sub-section (1) of the section 169UG but make a deposit of the same u/s 269UG.

28. But the question still remain as to whether, in this case, there is a bona fide dispute as to the title of the petitioners to receive the amount of consideration. It is true that there are no rival claimants. But the question still is whether there can be said to be any dispute as to the title of the executors to receive the amount of consideration.

29. In our view, the word "title" in sub-section (3) of section 269UG should be considered not merely as relating to the "ownership" of the part or whole of the consideration but as referable to the "entitlement" of the persons to receive the consideration. The word "entitlement" would necessarily give a wider meaning to the word "title", thereby taking in even a dispute as to the entitlement of the person challenging the provisions of the Act or the order of vesting earlier passed by the authorities. The position is that when a person challenging the vires of the provisions relating to compulsory acquisition under the Income Tax Act, is consequentially challenging the validity of the order of vesting, or is independently challenging the validity the order of vesting, it would, in our view, be not unreasonable for the Income Tax Department to say that such a person is not unconditionally entitled to receive the apparent consideration within the period specified in section 269UG and that there is a dispute as to the entitlement of the person to receive the consideration. In such an event, it would be open to the Department not to tender the apparent consideration u/s 269UG but to deposit the same before the appropriate authority under sub-section (3). If a person is questioning the validity of the provisions relating to compulsory acquisition or the order of vesting he could not claim to receive the apparent consideration as a matter of right or unconditionally even before a decision is rendered as to the vires of the provisions or as to the validity of the order of vesting, if a deposit could, therefore, be made u/s 269UG, the provisions relating to re-vesting in the apparent manner u/s 269UH(2) would not be attracted. The position is similar to a case where a person files a writ petition and challenges the validity of section 4 of the Land Acquisition Act or a notification made thereunder. Such a person cannot, while the writ is pending, seek to receive the compensation, so also if a vendor is challenging an agreement of sale executed

by him as and, he cannot, before the said question is decided, seek to receive the entire consideration. The position here is analogous. If the amounts are paid, in the meantime, before the said disputes are decided, it might indeed become difficult to recover them back again.

We have already mentioned that Writ Petition No. 2978 of 1990 is pending in this court. If the said writ petition is to be allowed, the position would be that the vesting would be bad and if in the meantime, the money is tendered within the period mentioned in the Act u/s 269UG and paid without security, it would be difficult for the authorities to recover the amount from the person who have received the same. If, assuming that there is otherwise no dispute as to the title of a seller, there will be a dispute as to the entitlement of the vendor to receive consideration if the vendor is challenging the very order of vesting or the vires of the sections under which the vesting order is passed. Therefore, in our view, even a dispute as to the validity of the provisions of the Act relating to compulsory acquisition or a challenge to the vesting order could raise a dispute as to the "entitlement" of the person to receive consideration within the period mentioned in sub-section (1) of section 269UG and, therefore, the authorities will be justified in not tendering the amount but in depositing the same under sub-section (3) of section 269UG, before the appropriate authority. The view we have taken is similar to the view taken by a Division Bench of the Madras High Court in *R. Padma and Others Vs. Appropriate Authority, Income Tax Department, Madras and Others*, .

30. For all the aforesaid reasons, we hold that as long as the writ petition filed by the petitioners challenging the provisions of the Act is kept pending and is not withdrawn or disposed of, it must be said that there is a dispute as to the entitlement of the petitioners to receive the amount of compensation and, therefore, the authorities are justified in making the deposit before the appropriate authority.

31. It is, however, contended that, in the earlier writ petition filed by the petitioners, the respondent filed an application, W.P.M.P. No. 5506 of 1990, seeking to pay the amount to the petitioners provided they furnish security. The said application came up before one of us (Jagannadha Rao J.) and Yogeshwar Dayal, Chief Justice (as he then was) on March 21, 1990, one day before the deposit. That application was dismissed holding that the authorities who are the respondents in the petition filed by the executors could not file such a petition as respondents and they could as well take recourse to sub-section (4) of section 269UG. Learned counsel for the petitioners, however, wants to rely on an averment in the Department's affidavit which is to the following effect :

"As the persons who are entitled to receive the amount of consideration, viz., respondent Nos. 1 to 5 filed the above writ petition...."

32. It is contended that there is an admission that the writ petitioners are entitled to receive the amount of consideration. In our view, the said averment in

the affidavit filed by the Department in the earlier writ petition cannot be cut into two parts, omitting the second part relating to the condition mentioned by the Department in the said application. The Department wanted the petitioners to withdraw the money only subject to furnishing security or bank guarantee. That was only a conditional offer. The petitioners cannot take advantage of the offer and avoid the condition imposed. The very imposition of the condition shows that the respondents entertained a doubt as to the entitlement of the petitioners to receive the consideration pending disposal of the writ petition, though the respondent did not otherwise dispute the title of the petitioners. For the aforesaid reasons, the said conditional offer in the affidavit of the respondent in the earlier writ petition cannot help the petitioners.

33. For all the aforesaid reasons, the writ petition is liable to be dismissed. However, if the petitioners are prepared to withdraw the earlier writ petition, Writ Petition No. 2978 of 1990, or furnish a bank guarantee, the respondents will release the consideration in favour of the petitioners. If the petitioners, however, are not inclined to accept either of the said options, they will not be entitled to receive the consideration. Learned counsel for the petitioners states that the petitioners are not inclined to withdraw the writ petition or furnish a bank guarantee for the amount of Rs. 15,37,640. Learned counsel, however, requested that we should give a direction to the second respondent to invest the said amount in the capital gains units of the Unit Trust of India. It is open to the petitioners to file an application before the first respondent for the aforesaid purpose. If such an application is made, we direct the first respondent to invest the said amount of Rs. 1,31,640 in appropriate units under the Unit Trust of India which are statutorily recognised for the purpose of investment in the capital gains/units. If any papers have to be signed by the petitioners, the first respondent may call upon them to do so. The petitioners agree to sign all the necessary papers. The above direction sought for by the petitioners is without prejudice to their rights.

34. Subject to the above directions, the writ petition is dismissed. No costs.