

[ 3488 ]

IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF OCTOBER

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 22596 OF 2024



Between:

1. Velagala Lakshmi, W/o V. Narayana Reddy, aged 53 years, R/o D.No 3-11-1, Vemana Veedhi, Kommara Village, Attili Mandal, West Godavari District.
2. Satti Jayalakshmi, W/o S. Jagadeeshwara Reddy, aged 42 years R/o D.No 2-176, Krishnapalem Village, Devarapalli Mandal, West Godavari District.
3. Gudimetla Nagamani, W/o G. Ranga Reddy, aged 58 years R/o D.No 3-160, Kommara Village, Attili Mandal, West Godavari District.
4. Nallamilli Lavanya, W/o N. V.S. Chandra Reddy, aged 32 years R/o D.No 2 -45, Ajjaram Village, Peravali Mandal, West Godavari District.
5. Velagala Veeravathi, W/o V. Venkat Reddy, aged 85 years, R/o D.No 12-69-5/6, Tanuku, West Godavari District.

Petitioners

AND

1. State of Andhra Pradesh, Represented by its Principal Secretary, Commercial Taxes and Legislative Affairs Department, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Chief Commissioner of State Tax, Andhra Pradesh Commercial Taxes Department, D.NO 12-468, NH-16, Kunchanapally, Guntur District.

3. The Joint Commissioner of State Tax, Eluru, West Godavari District.
4. The Deputy Assistant Commissioner (ST)-II, Tadepalligudem Circle, West Godavari District.
5. Gudimetla Satish Kumar Reddy, S/o D.No 4-44-9, GV Reddy Street, Tadepalligudem, West Godavari District.

### **Respondents**

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 4<sup>th</sup> Respondent in issuing the Notice dated 26.06.2024 attaching the Immovable Property belonging to the petitioners in S.No 298/1, situated at Kommaravillage, Attili Mandal, West Godavari District and subsequent action in issuing Notice for Auction dated 09.09.2024 proposing to conduct the sale of the petitioner's properties on 10.10.2024 as wholly illegal, arbitrary, irrational, unjust, without jurisdiction, contrary to the provisions of Goods and Service Act, 2017 and Rules made therein, principles of natural justice besides being violative of Articles 14 and 300-A of the Constitution of India and consequently set aside the Notice of Attachment dated 26.06.2024 and Notice of Auction dated 09.09.2024 issued by the 4<sup>th</sup> Respondent.

### **IA NO: 1 OF 2024**

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay all further proceedings pursuant to the Notice of Attachment dated 26.06.2024 and Notice of Auction dated 09.09.2024 issued by the 4<sup>th</sup> Respondent, pending disposal of WP 22596 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI.S.V.S.S.SIVA RAM Advocate for the Petitioners and GP for Commercial Tax for Respondent Nos.1 to 4, the Court made the following.

**ORDER:**

“Learned counsel for the petitioners is permitted to take out personal notice on the respondents by RPAD and file proof of service by the next date of hearing.

The Learned Government Pleader for Commercial Tax seeks time to obtain instructions and file counter affidavit.

The complaint of the petitioners, in the present case, is that the property purchased by them is being auctioned by the Deputy Assistant Commissioner (ST) – II/ 4<sup>th</sup> respondent, for recovery of taxes due from their vendor.

The learned counsel for the petitioners contends that the property in question had been purchased, by way of registered deeds of sale and that the said property cannot be auctioned for recovery of the dues of the vendor.

The Learned Government Pleader for Commercial Taxes relies upon Section 81 of the Central Goods and Services Tax Act, 2017, (for short “CGST Act”) to contend that the transactions relied upon by the petitioners are sham transactions done for the purposes of evading payment of taxes and consequently such transactions would have to be treated as void transactions which do not give title to the petitioners.

Section 81 of the Act merely provides for declaration of certain transactions to be void transactions with certain safeguards embedded

in the proviso. However, there is no machinery available for determination of the question as to whether the transactions in question are sham transactions falling within the ambit of Section 81 of the Act.

Prima facie, this Court, subject to the contentions that may be raised by the learned counsel for the respondents, is of the opinion that the provisions of Section 81 of the Act cannot be pressed into service unless there is a finding as to the nature of the transactions in question by a competent authority, authorized under the Act or the Rules.

Accordingly, there shall be stay of all further proceedings, in pursuance to the notice, dated 26.06.2024, attaching immovable properties belonging to the petitioners.

However, the petitioners shall not alienate such lands during the pendency of this order.

Post on 23.10.2024."

Sd/- K.TATA RAO  
DEPUTY REGISTRAR

//TRUE COPY//

  
SECTION OFFICER

For

To,

1. The Principal Secretary, Commercial Taxes and Legislative Affairs Department, State of Andhra Pradesh, Secretariat, Velagapudi, Amaravathi, Guntur District.
2. The Chief Commissioner of State Tax, Andhra Pradesh Commercial Taxes Department, D.NO 12-468, NH-16, Kunchanapally, Guntur District.(1 & 2 by Special Messenger)
3. The Joint Commissioner of State Tax, Eluru, West Godavari District.
4. The Deputy Assistant Commissioner (ST)-II, Tadepalligudem Circle, West Godavari District.

5. Gudimetla Satish Kumar Reddy, S/o D.No 4-44-9, GV Reddy Street, Tadepalligudem, West Godavari District. (3 to 5 by RPAD)
6. One CC to SRI.S.V.S.S.SIVA RAM Advocate [OPUC]
7. Two CCs to GP FOR COMMERCIAL TAX, High Court of Andhra Pradesh. [OUT]
8. Two spare copies

SRL



HIGH COURT

RRR,J & HN,J

DATED:04/10/2024

NOTE: POST ON 23.10.2024

ORDER

WP.No.22596 of 2024

STAY

