HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY ,THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL Nos: 1041 AND 1104 OF 2024

Writ Appeal under clause 15 of the Letters Patent filed against the order Dated-16/07/2024 in writ petition No.23869 of 2019 on the file of the High Court.

W.A.No. 1041 OF 2024

Between:

M.Ashok Kumar, S/o Venkatnarsaiah, Aged 51 years, Occ private employee and agriculture, R/o Flat No 103, Surya Residency near HDFC Bank, Pet Basheerabad, Jeedimetla, Medchal District.

...APPELLANT/RESPONDENT NO.5

AND

1. The State of Telangana, Rep by its Principal Secretary Revenue Department, Secretariat Hyderabad
2. The Joint Collector, Ranga Reddy District at Lakdi Ka Pul, Hyderabad
3. The Revenue Divisional Officer, Chevella, Ranga Reddy District
4. The Tahsildar, Shankarpally Mandal, Ranga Reddy District

.....RESPONDENTS/RESPONDENTS 1to5

5. Syed Asghar Hussaini (Died) per LRs, 11 to 13)
6. Syed Ahmed Hussaini, S/o Late Samadulla Hussaini Aged 84 years Occ agriculturist,R/o H no 122709/30, Navodaya Colony Mehdipatnam Hyderabad - 500264 TS
7. Sayedunnisa Begum, D/o Late SamadullaHussaini, Aged 73 years Occ Retired teacher, R/o- H no 344/1, Phase 3, Borabanda, Hyderabad TS
8. Syed Azam Hussain, S/o Late SamadullaHussaini, Aged 71 years, Occ-Retired Govt Servant, H.No.192246/G/4, Arif Residency, Abdul Hasnath Colony, Chandulal Bardari, Hyderabad-500264 T S
9. Azimunnisa Begum, D/o late Syed Samadulla Hussaini, aged about 68 years, occ- retired employee, R/o- H.No- 8 -1-40/A/155, Samata colony, ToliChowki, Hyderabad
10. MujtabaHussainiSiddique, D/o Late SamadullaHussaini, Aged 47 years, Occ Private business, R/o- H No- 81 366, A/148, Janaki Nagar Colony, Hyderabad T S
11. Syed Adil Hussaini,, S/o Syed Asghar Hussaini, Akbar Bagh, Tolichowki, Golkonda, Hyderabad, Telangana.

12. Syed Aqil Hussaini, S/o Syed Asghar Hussaini, Akbar Bagh, Tolichowki, Golkonda, Hyderabad, Telangana.
13. S. Zainab Sulthana, W/o Syed Asghar Hussaini, Akbar Bagh, Tolichowki, Golkonda, Hyderabad, Telangana.

...RESPONDENTS/PETITIONERS 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 of the learned Single Judge in WP No.23869/2019, dt.16/07/2024, pending disposal of Appeal petition

Counsel for the Appellant: SRI. VEDULA SRINIVAS, SENIOR COUNSEL FOR SRI S. VIPLAV SIMHA REDDY

Counsel for the Respondent Nos. 1to4: GP FOR REVENUE

Counsel for the Respondent Nos. 6to12: SRI B. MAYUR REDDY, SENIOR COUNSEL REP SRI MOHAMMED ABDUL WAHAB

W.A. NO: 1104 OF 2024

Writ Appeal under clause 15 of the Letters Patent Appeal Preffered Against the Order Dated 16/07/2024 Passed in W.P.No 8121 of 2021 on the file of the High Court.

Between:

M.Ashok Kumar, S/o Venkatnarsaiah, Aged 51 years, Occ private employee and agriculture, R/o Flat No 103, Surya Residency near HDFC Bank, Pet Basheerabad, Jeedimetla, Medchal District

...PETITIONER/APPELLANT

AND

1. The State of Telangana, Rep by its Principal Secretary Revenue Department, Secretariat Hyderabad
2. The Joint Collector Ranga Reddy District at LakdiKaPul, Hyderabad
3. The Revenue Divisional Officer Chevella, Ranga Reddy District
4. The Tahsildar, Shankarpally Mandal, Ranga Reddy District

....RESPONDENTS/RESPONDENTS

5. Syed Asghar Hussaini, (Died) perLr's I0to12)
6. Syed Ahmed Hussaini, S/o Late Samadulla Hussaini Aged 84 years Occ agriculturist, R/o H no 122709/30, Navodaya Colony Mehdipatnam Hyderabad 500264 TS
7. Sayedunnisa Begum, D/o Late SamadullaHussaini, Aged 73 years Occ Retired teacher, R/o H no 344/1, Phase 3, Borabanda, Hyderabad TS

8. Syed Azam Hussain, S/o Late Samadulla Hussaini, Aged 71 years, Occ Retired Govt Servant, H No 192246/G/4, Arif Residency, Abdul Hasnath Colony, Chandulal Bardari, Hyderabad - 500264 T S
9. Mujtaba Hussaini Siddique, D/o Late Samadulla Hussaini, Aged 47 years, Occ Private Business, R/o H No 81 366, A/148, Janaki Nagar Colony, Hyderabad T S
10. Syed Adil Hussaini, S/o Syed Asghar Hussaini, Akbar Bagh, Tolichowki, Golkonda, Hyderabad, Telangana
11. Syed Aqil Hussaini, S/o Syed Asghar Hussaini, Akbar Bagh, Tolichowki, Golkonda, Hyderabad, Telangana
12. S.Zainab Sulthana, W/o Syed Asghar Hussaini, Akbar Bagh, Tolichowki, Golkonda, Hyderabad, Telangana

...RESPONDENTS/RESPONDENTS

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 of the learned Single Judge in WP No.8121/2021, dt.16.07.2024, pending dispose of the Appeal

Counsel for the Appellant: SRI. S. VIPLAV SIMHA REDDY

Counsel for the Respondent Nos. 1to4: GP FOR REVENUE

Counsel for the Respondent Nos. 6to12: SRI B. MAYUR REDDY,
SENIOR COUNSEL REP
SRI MOHAMMED ABDUL WAHAB

The Court made the following : COMMON JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL Nos.1041 AND 1104 OF 2024

COMMON JUDGMENT *(per the Hon'ble the Acting Chief Justice):*

Regard being had to the similitude of the questions involved, on the joint request of the parties, the matters were analogously heard and decided by this common order.

2. These intra-Court appeals assail the common order dated 16.07.2024 passed in W.P.Nos.23869 of 2019 and 8121 of 2021. The prayers in the said Writ Petitions are as under:

W.P.No.23869 of 2019:

'...to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in passing the impugned order in Appeal No.C/383/2018 dt.30.8.2018 setting aside the orders passed by the 4th respondent in Procs.No.B/71/2009 dt.19 12.2016 by directing him to pass orders afresh by affording opportunity to all the concerned, when admittedly the 4th respondent has only implemented the orders passed in G.O.Msl.No.1110 Revenue ® dt.19.8.1975 in compliance of the orders passed by this Hon'ble Court in W.P.No.10339/2012 dt.19.1.2016, as being illegal, arbitrary, unilateral and unconstitutional and consequently set aside the same...'

W.P.No.8121 of 2021:

'...to issue any writ, order or direction more in the nature of writ of Mandamus declaring the action of the 4th respondent herein/Tahsildar in passing the order dt.29.10.2019 in case No.B/2929/2019 in respect of land in Survey No.126 to an extent of Ac.1.27 guntas situated at Chandippa village, Shankerpally Mandal, Ranga Reddy District, as illegal, arbitrary, unconstitutional, and against the provisions of Law and in utter violation and disobeyance of orders in w.P.No.23869 of 2019 and consequently declare the same as void ab initio and further direct the respondents to forthwith restore the name of the original Inamdar in online Pahanis

and the Dharani as per the Supplementary Sethwar and subsisting binding orders of the Hon'ble High Court.....'

3. The rival stand taken in these appeals by the parties and findings given in the impugned common order of learned single Judge remind us the famous idiom *'the pot calling the kettle black'*.

4. Draped in brevity, the facts as projected by the appellant are that one Ramanujamma was issued with Occupancy Rights Certificates dated 20.06.1978 basing on the claim made by her as pattedar and Samadullah Hussaini as Inamdar in respect of land admeasuring Ac.1-27 guntas in Sy.No.126 of Chandippa Village, Shankarpally Mandal, Ranga Reddy District. Respondent Nos.5 to 13 (unofficial respondents) sought rectification of entries in *Sethwar* and the concerned Tahsildar rectified the same on 25.11.1985. The son of Ramanujamma namely Rameswar Reddy filed an appeal under Section 5(5-B) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, RoR Act) before the Revenue Divisional Officer which was allowed on 20.03.1991. Aggrieved, the unofficial respondents filed a revision before the Joint Collector which came to be dismissed on 11.12.1995. Later, Rameswar Reddy sold the subject land to M/s.Pro Agro Seed Company Limited and mutation was also done

in its favour. The present appellant had purchased the subject land from said M/s.Pro Agro Seed Company Limited under sale deed document No.1521/2006, dated 07.02.2006. Later, mutation was done in favour of the appellant on 15.10.2007 and pattadar passbook and title deeds were also issued to him.

5. The unofficial respondents filed W.P.No.10339 of 2012 for implementing the order of Tahsildar dated 25.11.1985 by suppressing the order of Revenue Divisional Officer dated 20.03.1991 and also the revisional order of Joint Collector dated 11.12.1995. However, the present appellant was not impleaded as a party in the said Writ Petition. The Writ Petition was disposed of on 19.01.2016, directing respondent Nos.2 to 4 therein to take steps in accordance with law for issuance of pattadar pass books and title deeds in respect of the subject lands at the earliest. Pursuant thereto, the Tahsildar incorporated Samadullah Hussain in the revenue records in respect of the subject lands on 19.12.2016. Thereafter, the appellant filed W.A.No.401 of 2018 against the order in W.P.No.10339 of 2012 and the same was disposed of on 10.09.2018 permitting the appellant to file revision under Section 9 of the RoR Act. The appellant, in fact, filed an appeal before the Revenue Divisional Officer under Section 5(5-A)

of the RoR Act which was allowed on 30.08.2018. Consequently, the Tahsildar mutated the name of the appellant in the revenue records on 29.10.2019. Aggrieved, the unofficial respondents filed W.P.No.23869 of 2019 challenging the order of Revenue Divisional Officer dated 30.08.2018 and W.P.No.8121 of 2021 challenging the proceedings of the Tahsildar dated 29.10.2019. The learned single Judge, vide common order dated 16.07.2024 set aside the orders impugned therein and remitted the matter back to the Special Tribunal for disposing of appeal in accordance with law. Aggrieved by the same, the present appeals have been filed.

6. Sri Vedula Srinivas, learned Senior Counsel representing Sri S.Viplav Simha Reddy, learned counsel for the appellant, fairly submits that while filing W.A.No.401 of 2018, the appellant had not disclosed that he had already filed appeal before the Revenue Divisional Officer and the same was decided on 30.08.2018. The principal argument of learned Senior Counsel for the appellant is that the unofficial respondents herein suppressed many material facts before the learned single Judge and categorical finding in this regard is duly recorded by the learned single Judge. The judgment of the Apex Court in **Amar Singh v. Union of India and**

Others[1] was also considered by the learned single Judge. In view of the said judgment of the Apex Court and finding of learned single Judge in the impugned order, the unofficial respondents herein were not entitled of hearing on merits. The learned single Judge, despite taking note of binding judgment of the Apex Court, entertained the Writ Petitions, heard them on merits and granted relief desired by the unofficial respondents herein which is bad in law. He placed reliance on the judgment of the Apex Court in **Amar Singh** (supra).

7. Sri B.Mayur Reddy, learned Senior Counsel representing Sri Mohammed Abdul Wahab, learned counsel for the unofficial respondents, submits that the appellant is equally guilty of suppression of material facts. The impugned order before the Writ Court was passed at the instance of the appellant herein and without impleading the writ petitioners/unofficial respondents herein. In the impugned order, learned single Judge has recorded categorical finding against the appellant as well. Because of suppression of material fact by the appellant also, the present Writ Appeals are not tenable. He urged that the learned single Judge has only set aside the impugned order and remanded the

[1] (2011) 7 SCC 69

matter back to the Special Tribunal, Ranga Reddy District for re-hearing which will not cause any prejudice to the appellant herein. More-so, when the unofficial respondents were not heard by the Special Tribunal before passing the orders impugned before the learned Single Judge.

8. The parties have confined their arguments to the extent indicated above. We have heard the parties at length and perused the record.

9. Interestingly, both the Senior Counsel for the parties fairly admitted that the findings given about both the parties regarding suppression of material fact by the learned single Judge are, indeed, correct. Thus, the pivotal question cropped up is whether the learned single Judge was justified in passing the impugned order?

10. It is apposite to reproduce certain paragraphs of the impugned order which read as under:

> "14. **It is relevant to place on record that respondent No.5 had approached this Court and filed W.A.No.401 of 2018 with unclean hands by suppressing the factum of filing of appeal before the RDO under the RoR Act including disposal of the said appeal on 30.08.2018 and invited the order from the Hon'ble Division Bench on 10.09.2018**. Whereas, respondent No.5 in counter-affidavit in W.P.No.8121 of 2021 simply averred that he is not aware of the factum of listing of W.A.No.401 of 2018 before the Hon'ble

Division Bench and, as such, he could not intimate about disposal of appeal to his counsel and the same is not acceptable under law, as he suppressed the material facts.

15. **It is also relevant to place on record that petitioner Nos.1, 2 and 4 have also suppressed the several material facts about filing of appeal Case No.C/6205/1986 before respondent No.3 against them questioning the order dated 25.11.1985 and allowing of the said appeal on 20.03.1991 and also filing of revision by them before the Joint Collector, Ranga Reddy District, *vide* Case No.D1/8075/91 questioning the order dated 20.03.1991 and dismissal of the said revision petition on 11.12.1995.** On the other hand, petitioner Nos.1, 2 and 4 have filed W.P.No.10339 of 2012 seeking implementation of the non-existing order dated 25.11.1985 passed by the Mandal Revenue Officer, Shankarapally, and invited order in W.P.No.10339 of 2012 on 19.01.2016. **Hence, this Court is of the considered view that not only respondent No.5, but also the petitioners have approached this Court with unclean hands.** The settled principle of law is that the parties have to approach the Writ Court with clean hands and put forward all the facts before the Court without concealing or suppressing material facts, especially when they are seeking equitable relief in writ jurisdiction.

16. In **Amar Singh v. Union of India and others**[2], the Hon'ble Apex Court held that litigant, who comes to Court and invokes writs jurisdiction, must come with clean hands and he cannot prevaricate and take inconsistent stands because law is not a game of chess and equitable nature of remedy must be governed by principle of *uberrima fides*. The Court highlighted that such suppression of material facts undermines the integrity of the judicial process, emphasizing the importance of transparency and truthfulness in all interactions with the court.

17. In **K.D. Sharma v. Steel Authority of India limited and ors.**[3], the Hon'ble Apex Court held the jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must

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[2] (2011) 7 SCC 69
[3] (2008)12 SCC 481

come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed **at the threshold without considering the merits of the claim.**"

(Emphasis supplied)

11. A plain reading of aforesaid paragraphs makes it clear that the learned single Judge has recorded findings about suppression of material facts against the unofficial respondents and appellant both. Pertinently, the learned single Judge, by placing reliance on the judgment of the Apex Court in **Amar Singh** (supra) and **K.D. Sharma v. Steel Authority of India Limited and Others**[4], opined that non-disclosure of relevant material facts amounts to misleading the Court and such petition may be dismissed at the threshold without considering the merits of the claim. In **Amar Singh** (supra), the Apex Court opined as under:

"53. Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts. Courts held that such litigants have come with 'unclean hands' and are not entitled to be heard on the merits of their case."

(Emphasis supplied)

12. The similar view is taken by the Apex Court in catena of judgments (see **Vijay Syal v. State of Punjab**[5], **Prestige Lights**

[4] (2008) 12 SCC 481
[5] (2003) 9 SCC 401

Ltd. v. State Bank of India[6], **Udyami Evam Khadi Gramodyog Welfare Sanstha v. State of Uttar Pradesh**[7], **Dalip Singh v. State of Uttar Pradesh**[8] and **Manohar Lal (Dead) By Lrs. v. Ugrasen**[9]).

13. The principles flowing from the said judgments can be culled out as under:

> "1. A writ remedy is an equitable one. While exercising extraordinary power a Writ Court certainly bear in mind the conduct of the party who invokes the jurisdiction of the Court.
>
> 2. Litigant before the Writ Court must come with clean hands, clean heart, clean mind and clean objective. He should disclose all facts without suppressing anything. Litigant cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back)/conceal other facts.
>
> 3. Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or mis representation which has no place in equitable and prerogative jurisdiction.
>
> 4. If litigant does not disclose all the material facts fairly and truly or states them in a distorted manner and misleads the Court, the Court has inherent power to refuse to proceed further with the examination of the case on merits. If Court does not reject the petition on that ground, the Court would be failing in its duty.
>
> 5. Such a litigant can also be dealt with for Contempt of Court for abusing the process of the Court.

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[6] (2007) 8 SCC 449
[7] (2008) 1 SCC 560
[8] (2010) 2 SCC 114
[9] (2010) 11 SCC 557

6. There is a compelling need to take a serious view in such matters to ensure purity and grace in the administration of justice.

7. The litigation in the Court of law is not a game of chess. The Court is bound to see the conduct of party who is invoking such jurisdiction."

(Emphasis supplied)

14. At the cost of repetition, the aforesaid factual background, rival accusation about suppression of facts and finding of the learned single Judge reminded us about the proverb *'the pot calling the kettle black'*. What is noteworthy is that despite recording the finding about suppression of material facts by the parties and taking note of judgments of the Apex Court in **Amar Singh** and **K.D. Sharma** (supra), learned single Judge has not recorded any finding as to why the matter should be heard on merits. Requirement of giving such finding must be treated as a pre-condition for deciding a matter of this nature. Putting it differently, unless the Court records a finding that despite suppression of material facts, matter can be decided on merits for some justifiable reasons, hearing and decision on matter on merits cannot be upheld.

15. In the instant case, the learned single Judge has not recorded any such finding which, in our humble opinion, is a

pre-requisite. The learned single Judge was required to analyze and decide whether despite suppression of material facts, the petition is entertainable on merits. In absence of such finding, the impugned order is set aside. The Writ Petitions are restored to their original numbers for considering the matters in the light of observations made hereinabove and decide them afresh in accordance with law.

16. Accordingly, the Writ Appeals are disposed of. It is made clear that this Bench has not expressed any view on merits. There shall be no order as to costs. Miscellaneous applications, if any, shall stand closed.

SD/- Smt. K. SHYLESHI
DEPUTY REGISTRAR

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SECTION OFFICER

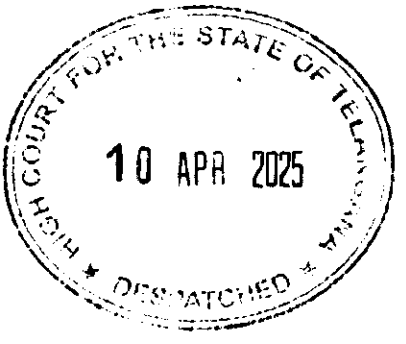
To,

1. The Principal Secretary Revenue Department, Secretariat, T.S., Hyderabad
2. The Joint Collector, Ranga Reddy District at Lakdi Ka Pul, Hyderabad
3. The Revenue Divisional Officer, Chevella, Ranga Reddy District
4. The Tahsildar, Shankarpally Mandal, Ranga Reddy District
5. The Section Officer, Writ (Non-Service), Section High Court for the State of Telangana, Hyderabad
6. The Section Officer, Posting Section , High Court for the State of Telangana , Hyderabad
7. One CC to SRI. S. VIPLAV SIMHA REDDY, Advocate [OPUC]
8. Two CCs to GP FOR REVENUE ,High Court for the State of Telangana at Hyderabad [OUT]
9. One CC to SRI. MOHAMMED ABDUL WAHAB, Advocate [OPUC]
10. Two CD Copies

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HIGH COURT

DATED:11/02/2025



COMMON JUDGMENT

WA.Nos.1041 AND 1104 OF 2024

DISPOSING OF BOTH THE WRIT APPEALS WITHOUT COSTS

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