HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition Nos.21547, 22350, 22467, 22469, 22470, 22471, 22472, 22473, 22475, 22476, 22504 of 2007; 2439, 2452, 3702, 5664, 14055, 17309 and 17671 of 2008

29.01.2016

WRIT PETITION No. 21547 of 2007

Between:

Smt. Kandregula Ganeshwari

… Petitioner

And

The Sub Registrar, Visakhapatnam and others

… Respondents

HON'BLE THE ACTING CHIEF JUSTICE SRI DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE S.V.BHATT

Writ Petition Nos. 21547, 22350, 22467, 22469, 22470, 22471, 22472, 22473, 22475, 22476, 22504 of 2007; 2439, 2452, 3702, 5664, 14055, 17309 and 17671 of 2008

COMMON ORDER: **(per the Hon'ble The Acting Chief Justice Sri Dilip B.Bhosale)**

Heard the learned counsel for the parties.

2. The questions involved and the challenge raised in this batch of writ petitions are similar and, therefore, learned counsel for the parties, in particular for the petitioners, have agreed for disposal of the petitions by this common order in the light of the Full Bench judgment in Vinjamuri Rajagopala Chary and others vs. Principal Secretary, Revenue Department, Hyderabad & others (W.A.343 of 2015, 232 of 2012 and 352 of 2013) dated 23-12-2015. The writ petitions were filed assailing inaction of registering authorities in receiving, registering and delivering the documents presented for registration in exercise of powers under Section 22-A of the Registration Act, 1908 (for short "Registration Act"). The six judgments, referred to in the Full Bench judgment, of the learned single judges, disposing of large number of writ petitions, on certain issues/questions were either conflicting or inconsistent and in view thereof, reference to the Full Bench was made. The Full Bench, after making detailed reference to the six

judgments, framed the following questions for consideration:-

> **"1. What are the pre-requisites that are to be satisfied for applying any one or more of clauses (a) to (e) of Section 22-A (1) of the Registration Act to any document dealing with alienation or transfer by way of sale, agreement of sale, gift, exchange or lease etc. in respect of immovable property presented for registration?**
>
> **2. Under what circumstances, the act of the Registering authority concerned (District Registrar or Sub-Registrar) in refusing from registration of the aforementioned document/s by applying any one or more of the prohibitory clauses (a) to (e) under Section 22-A (1) of the Registration Act can be said to be justified?"**

3. The Full Bench, to which one of us (Justice Dilip B Bhosale, Acting Chief Justice) was member, in depth considered the provisions contained in Section 22-A and summarised its conclusions in paragraph 36 as follows:-

(i) The authorities mentioned in the guidelines, which are obliged to prepare lists of properties covered by clauses (a) to (d), to be sent to the registering authorities under the provisions of Registration Act, shall clearly indicate the relevant clause under which each property is classified.

(ii) Insofar as clause (a) is concerned, the concerned District Collectors shall also indicate the statute under which a transaction and its registration is prohibited. Further in respect of the properties covered under clause (b), they shall clearly indicate which of the Governments own the property.

(iii) Insofar as paragraphs (3) and (4) in the Guidelines, covering properties under clause (c) and (d) are concerned, the authorities contemplated therein shall also forward to the registering authorities, along with lists, the extracts of registers/gazette if the property is covered by either endowment or wakf, and declarations/orders made under the provisions of Ceiling Acts if the property is covered under clause (d).

(iv) The authorities forwarding the lists of properties/lands to the registering authority shall also upload the same to the website of both the Governments, namely ***igrs.ap.gov.in*** of the State of Andhra Pradesh and ***registration.telangana.gov.in*** of the State of Telangana. If there is any change in the website, the State Governments shall indicate the same to all concerned, may be by issuing a press note or an advertisement in prominent daily news papers.

(v) No notification, contemplated by sub-section (2) of Section 22A, is necessary with respect to the properties falling under clauses (a) to (d) of sub-section (1) of Section 22-A.

(vi) The properties covered under clause (e) of Section 22-A shall be notified in the official gazette of the State Governments and shall be forwarded, along with the list of properties, and a copy of the relevant notification/gazette, to the concerned registering authorities under the provisions of Registration Act and shall also place the said notification/gazette on the aforementioned websites of both the State Governments. The Registering authorities shall make available a copy of the Notification/Gazette on an application made by an aggrieved party.

(vii) The registering authorities would be justified in refusing registration of documents in respect of the properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A provided the authorities contemplated under the guidelines, as aforementioned, have communicated the lists of properties prohibited under these clauses.

(viii) The concerned authorities, which are obliged to furnish the lists of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, and the concerned Registering Officers shall follow the guidelines scrupulously.

(ix) It is open to the parties to a document, if the relevant property/land finds place in the list of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, to apply for its deletion from the list or modification thereof, to the concerned authorities as provided for in the guidelines. The concerned authorities are obliged to consider the request in proper perspective and pass appropriate order within six weeks from the date of receipt of the application and make its copy available to the concerned party.

(x) The redressal mechanism under Section 22-A(4) shall be before the Committees to be constituted by respective State Governments as directed in paragraph-35.1 above. The State Governments shall constitute such committees within eight weeks from the date of pronouncement of this judgment.

(xi) Apart from the redressal mechanism, it is also open to an aggrieved person to approach appropriate forum including Civil Court for either seeking appropriate declaration or deletion of his property/land from the list of prohibited properties or for any other appropriate relief.

(xii) The directions issued by learned single Judges in six judgments referred to above or any other judgments dealing with

the provisions of Section 22-A, if are inconsistent with the observations made or directions issued in this judgment, it is made clear that the observations made and directions issued in this judgment shall prevail and would be binding on the parties including the registering authorities under the Registration Act or Government officials or the officials under the Endowments Act, Wakf Act and Ceiling Acts.

(xiii) If the party concerned seeks extracts of the list/register/gazette of properties covered by clauses (a) to (e) of Section 22-A (1), received by the registering officer on the basis of which he refused registration, it shall be furnished within 10 days from the date of an application made by the aggrieved party.

(xiv) Registering officer shall not act and refuse registration of a document in respect of any property furnished to him directly by any authority/officer other than the officers/authori-ties mentioned in the Guidelines.

(xv) Mere registration of a document shall not confer title on the vendee/alienee, if the property is otherwise covered by clauses (a) to (e), but did not find place in the lists furnished by the concerned authorities to the registering officers. In such cases, the only remedy available to the authorities under clauses (a) to (e) of sub-section (1) of Section 22-A is to approach appropriate forums for appropriate relief.

4. The learned counsel for the parties are *ad idem* viz., that the questions raised/issues involved in this batch of writ petitions are substantially covered by the judgment of the Full Bench dated 23-12-2015 in W.A.No.353 of 2015 and batch. In this backdrop, we dispose of the writ petitions in terms of the judgment of the Full Bench dated 23-12-2015 in W.A.No.343 of 2015 and batch and make the following observations:-

(i) After expiry of the period granted by the Full Bench for taking appropriate steps as directed therein, writ petitioners are given liberty to present or represent the documents before the concerned Sub-Registrar/registering authority having jurisdiction and the Sub-Registrar/registering authority shall entertain the

documents for registration.

(ii) The Sub-Registrar/registering authority upon entertaining the documents so presented for registration, process the documents in accordance with law, and bearing in mind the principles of law laid down by this Court in Full Bench judgment dated 23-12-2015 and the directions issued therein, may either admit the document for registration or, for any reason, the document cannot be registered, it shall take the decision as per the directions issued by this Court in the Full Bench judgment and communicate to parties the reasons for refusal.

(iii) The Revenue Department/District Collectors, Endowments and Wakf are directed to comply the formalities suggested and the directions issued by this Court in Full Bench judgment, within the stipulated time, updating the lists required to be operated by the respective registering authorities strictly in compliance thereof.

(iv) The competent authority shall prepare the list of assigned lands with the condition of non-alienability and forward the list to Sub-Registrar/Registering Authority under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short “Act 1977”). The petitioners who claim to have lands assigned prior to 1954 without the condition of non-alienability are given liberty to place details of assignment and decisions of this Court on the applicability of “Act 1977” to such assignment, for updating and operating the prohibitory list by these authorities under Section 22-A of the Act.

(v) The respondent/Government having regard to a particular fact situation, if is desirous of including land assigned prior to 1954 in prohibitory list and claims interest in the property, the prohibition of such registration shall be by way of a notification under Section 22-A(1)(e) of the Act. It is open to the aggrieved party to assail such notification, if any, issued by the competent authority. It is made clear that refusal of registration by S.R.O in a given case results in fresh cause of action and the party aggrieved, by such rejection, is given liberty to pursue the legal remedies available to him/her in law.

(vi) Registration of documents pursuant to interim order of this court in writ petitions would be subject to the decision that will be taken by the registering authority in pursuance of the directions issued by this Court in Full Bench judgment, on the principle that in a *lis,* interim order merges with the final order. In other words, it is open to the registering authority to either confirm the registration or cancel the registration and return the document, as the case may be, in the light of the decision of the Full Bench within three(3) months from the expiry of period of four(4) months mentioned in para.37 of the Full Bench judgment.

(vii) The petitioners are given liberty to produce the copy of the Full Bench Judgment along with presentation/representation of the document in pursuance of this order.

(viii) It is made clear that the registering authorities shall not have any adjudicatory right in respect of the property covered by the document presented for registration except informing reasons for refusing the registration or cancelling the registration. It is further made clear that none of the observations made in this order shall dilute either the directions issued in the Full Bench Judgment or the observations made therein.

(ix) It is needless to mention that this order shall not take away the right of parties to carry the judgment of the Full Bench to Supreme Court, if they so desire and advised.

5. Consequently, miscellaneous petitions, if any pending, also stand disposed of. No order as to costs.

DILIP B.BHOSALE, ACJ

S.V.BHATT, J

Date:29.01.2016

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