

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 35080 of 2016

ORDER:

1) Heard learned counsel for the petitioner and Government Pleader for Assignment. With the consent of both the parties, the main writ petition being taken up for disposal at the admission stage itself.

2) The present writ petition came to be filed seeking issuance of writ of mandamus directing respondent No.3 to receive the sale deed dated 06.02.2016 in respect of land admeasuring Ac.0.20 cents in R.S.No.538/2 of Kesanapalli Village, Gollapalem Gram Panchayat Area, Malkipuram Mandal, East Godavari District, complete the process of registration and release the same by declaring the endorsement dated 19.07.2016 issued by respondent No.3 as illegal and violative of Articles 14 and 300-A of the Constitution of India.

3) The petitioner claims himself to be in possession of the land referred to above as he is said to have purchased the same from his predecessor-in-title for a valid consideration. Thereafter, he made an application for issuance of pattadar pass book and pursuant to which pattadar pass book and title deed were issued in his favour vide patta No.2296 dated 22.02.2003. While things stood thus, original owner by name Oggu Venkanna executed a power of attorney in favour of K.P.Satyanarayana which was

validated by respondent No.2 through L.Dis.No.CC/ 120/ 2016, dated 02.02.2016. Having been authorized to alienate the said property, the petitioner executed a sale deed in favour of N.Srinivasa Rao, S/o. Satyanarayana Murthy, for Rs.1,60,000/- . When the sale deed was presented before respondent No.3, he refused to receive the said document, which made the petitioner to file W.P.No.11947 of 2016, which was disposed of on 12.04.2016 directing respondent Nos.2 and 3 therein to receive the document presented by the petitioner for the purpose of registration and if the Sub-Registrar do not intend to register it, he was directed to pass orders under Section 71 of the Registration Act.

4) It is said that subsequent to the order passed by this Court, the impugned endorsement dated 19.07.2016 came to be issued refusing to register the document on the ground that ROR IB Format (Web Land) and pattadar adangal do not contain the digital signature of the Tahsildar and that the survey number is in dispute.

5) It is the case of the petitioner that pattadar pass book and title deed were given to the petitioner in respect of land admeasuring Ac.3.08 cents in R.S.No.538/ 2 in the year 2003 vide patta No.2296 and that his name was also entered in 1-B register showing account No.2296. Challenging the endorsement, which according to the petitioner is totally illegal and incorrect the present writ petition came to be filed.

6) The Government Pleader for Assignment filed his counter stating that the land in question is an assigned land and as such there is a prohibition to transfer the land. It is further stated that on 19.07.2006, the G.P.A. Holder of the petitioner approached the concerned Tahsildar along with Xerox copy of the document in respect of subject property and enquired about registration of the document. On perusing the Xerox copy of the document, respondent No.3 issued endorsement dated 19.07.2016 to the G.P.A. holder of the petitioner stating that the concerned Tahsildar has not digitally signed in the web land, ROR 1-B in respect of the subject property and that it was mentioned in the web land that the property in dispute is a government land. It is further stated in the counter that without submitting the original document along with the challans evidencing payment of stamp duty and registration fee, the petitioner has approached this Court by filing this writ petition.

7) Though no reply has been filed, the learned counsel for the petitioner placed on record documents to show that the original of the registered document was placed before the sub-Registrar along with challan showing collection of stamp duty of Rs.12,100/- on 18.07.2016. Therefore, the averments in the counter that the document itself was not presented for registration appears to be incorrect. If the intention of the petitioner was to seek a direction without presenting document, alleging harassment etc., the petitioner would not have ventured to pay the stamp duty on

account of Rs.12,100/ -. Hence the argument of the Government Pleader that no document was presented cannot be accepted.

8) The next ground on which the document came to be returned was that these documents do not contain the digital signature of the Tahsildar. Relying upon a Circular Memo No.G1/ 1249/ 2012 dated 25.06.2016 issued by the Director and Inspector General of Registration and Stamps, A.P., Hyderabad, it is urged that the registering authority appointed under the Registration Act, 1908, shall effect the registrations on the basis of entries made in the Record of Rights maintained electronically.

9) It may be true that the petitioner was issued pattadar pass book and title deed in the year 2003 vide Patta No.2296 but the presentation of those document before the Sub-Registrar was only in the month of July, 2016 which is evident from challan dated 18.07.2016, by which time the circular came into effect. Hence, the authorities have no other option except to follow the Circular Memo No.G1/ 1249/ 2012 dated 25.06.2016, which prescribe giving preference to entries maintained electronically. Therefore, in my view, the petitioner has to make an application for getting in an online mode and then get the document registered.

10) The last ground of rejection for registering the document was that the property is a government land and the same has been shown in the prohibitory list. It is the argument of the Government Pleader that there is an effective alternative remedy available, which has been dealt in detail by the Full Bench of this

Court in *Vinjamuri Rajagopala Chary v. State of Andhra Pradesh*¹. Though the petitioner claims himself to have purchased the land by way of registered sale deed and that his name was mutated in the revenue records, the respondents are disputing the same on the ground that the said land is shown as Assigned Land. Apart from that the subject land was mentioned in the prohibitory list published under Section 22-A of the Registration Act.

11) In *Vinjamuri Rajagopala Chary v. State of Andhra Pradesh* (1 supra) Full Bench of this Court made the following observations.

- 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).

¹ (2016) 2 ALD 236 F.B.

- 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/ authorities 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.

12) As per the judgment referred to above, once, the property is notified in the prohibitory list, the petitioner has to make an application before the authority seeking deletion, by producing all the necessary records or approach the Committee to be constituted pursuant to Full Bench Judgment or file an appeal against the same under Section 72 of the Registration Act or approach the civil Court seeking declaration of title and then get the same registered, in accordance with law.

13) Leaving it open to the petitioner to get the documents corrected in the manner prescribed above and to avail the remedy available for deletion of the property from the prohibitory list, the writ petition is disposed of. There shall be no order as to costs.

14) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

29.11.2016
gkv

