

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 40108 of 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Stamps and Registration and, with their consent, the writ petition is disposed of at the admission stage.

The action of respondent No.3, in refusing to register the property in Sy.No.173/3 vide endorsement dated 23.09.2016, is questioned in this Writ Petition as being illegal and arbitrary.

The petitioner claims that his vendor viz. Murgesh is the owner of plot No.3 admeasuring 192 sq. yards in Sy.No.173/3 situated at K.Chennayigunta Village, Tirupathi, Chittoor District. By his impugned endorsement dated 23.09.2016, the third respondent refused to register the subject plot on the ground that it was classified as government land as per Section 22A(1)(b) of the Registration Act (for short 'the Act').

Learned Government Pleader for Stamps and Registration would submit that the petitioner has a remedy of appeal and, instead of filing this Writ Petition, he should have availed the remedy of appeal.

Section 22A(1)(b) of the Act empowers the State Government either suo moto or on an application by any person or for giving effect to the final orders of the High Court of Andhra Pradesh or Supreme Court of India may proceed to denotify, either in full or in part, the notification issued under sub-section (2).

The document was refused on the ground that the property is notified as government land and the same has been shown in the prohibitory list. In **Vinjamuri Rajagopala Chary v. State of**

Andhra Pradesh¹, the 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).
- 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.

¹ (2016) 2 ALD 236 F.B.

- 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.

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 approach the civil Court seeking declaration of title and then get the same registered, in accordance with law.

Leaving it open to the petitioner to avail the remedy available, the writ petition is disposed of.

There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

C. PRAVEEN KUMAR,J

Dt: 21.11.2016
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