

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

-
WRIT PETITION No. 35601 of 2014

Date: 02.03.2016

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Between:

Md. Suleman & another.

... Petitioners

And

The State of A.P., rep., by its Principal Secretary,
(Revenue) UC-II,
Hyderabad & others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO**

WRIT PETITION No. 35601 of 2014

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard Sri P. Sri Raghu Ram, learned Senior Counsel, for the petitioners, and Sri D. Ramesh, learned Government Pleader, for the respondents.

The prayer made in the writ petition reads thus:

“For the reasons stated in the accompanying affidavit it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in including the property of the petitioners in Sy.No.40/P admeasuring 928.11 Sq. meters, situated in Machavaram Village, Vijayawada Corporation by issuing G.O.Ms.No.1400, dated 28.11.2008, U/s 22-A of the Indian Registration Act, 1908 by declaring the in-alienation condition in the G.O.Ms.No.1044, Revenue UC-I Department, dated 11.10.1994, as inapplicable and to consequently quash G.O.Ms.No.1400, dated 28.11.2008, as being illegal and unconstitutional by declaring that the petitioners are entitled to hold the property in Sy.No.40/P of an extent of 928.11 Sq. meters of Machavaram Village, Vijayawada Corporation free of all encumbrances in view of the fact that the Act of 1976 has been repealed as a result of which the conditions in G.O.Ms.No.1044, Revenue UC-I Department, dated 11.10.1994 are non-est and unenforceable and pass such other order or orders, that this Hon'ble Court may deem fit and proper in the circumstances of the case.”

It is not in dispute that the property in question is covered by clause (d) of sub-section (1) of Section 22-A of the Indian

Registration Act, 1908 (for short, “the Act”). In our opinion, merely because notification has been issued (G.O.Ms.No.1400, dated 28.11.2008) does not mean that the property is covered by clause (e) of sub-section (1) of Section 22-A of the Act. Sri D. Ramesh, learned Government Pleader, fairly states that the petitioners may be given liberty to approach the concerned authority as observed in sub-para (ix) of paragraph 36 of the Full Bench judgment in **Vinjamuri Rajagopala Chary and others vs. State of Andhra Pradesh, rep., by its Principal Secretary, Revenue Department, Hyderabad and others**^[1]. The relevant observations read thus:

“(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.”

Sri P. Sri Raghu Ram, learned Senior Counsel for the petitioners, submits that the petitioners may be given two weeks time to make an application/representation seeking deletion of their land from the list/notification, dated 28.11.2008.

In the circumstances, we are satisfied that this writ petition can be conveniently disposed of by the following order:

“It is open to the petitioners to make an application/representation to the concerned authority, as observed in sub-para (ix) of paragraph 36 of the Full Bench judgment within a period of two weeks from today for deletion of their land from the notification prohibiting alienation thereof as contemplated under Section 22-A of the Act.

If the petitioners make an application/representation, as

aforementioned, the concerned authority may deal with the same on merits in accordance with law and in the light of the observations made by this Court in the aforementioned Full Bench judgment and pass order within six weeks from the date of presentation of the representation. All contentions of the petitioners are kept open.”

Miscellaneous petitions, if any, shall also stand disposed of.

DILIP B.BHOSALE, ACJ

P.

NAVEEN RAO, J

Date: 02.03.2016
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[\[1\]](#) 2016 (1) ALT 550 (F.B.)