

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.33242 OF 2017

DATED : 05.10.2017

Between :

M/s.Edelweiss Asset Reconstruction Company Limited,
Acting in its capacity as Trustee of EARC Trust SC 236,
3rd floor, Edelweiss House, Off C.S.T.Road, Kalina,
Mumbai-400098, rep., by its Authorised Signatory,
Ms.Sukanya Sahani.

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Petitioner

And

The State of Andhra Pradesh,
rep., by its Principal Secretary,
Stamps and Registration Department,
A.P.Secretariat, Velagapudi, Amaravathi,
Guntur District & others.

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Respondents



This court made the following :

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ORDER :

Heard.

2. The documents presented by the petitioner was refused for registration by the Sub-Registrar, vide his endorsement dated 20.03.2017. In support of his decision to refuse registration of the document, the Joint Sub-Registrar assigned ten reasons and this decision is made in accordance with the provisions contained in Section 71 of the Registration Act, 1908 (for short 'the Act').

3. Against any decision made by the registering authority, appeal shall lie to the District Registrar, under Section 72 of the Act. Without availing the remedy of appeal, this writ petition is filed.

4. A bare perusal of the provisions in Section 72 of the Act makes it clear that an appeal would lie against an order of Sub-Registrar refusing to admit the document for registration. Thus, whatever may be the nature of document presented before the original registering authority, once the registering authority refuses to admit and register the document and passes an order assigning reasons in support of his decision, an appeal shall lie. It cannot be said that the remedy of appeal is not effective and efficacious. When an effective and efficacious remedy is available, this Court is not inclined to entertain the writ petition and consider the writ petition on merits.

5. Furthermore, it is also seen from the reasons assigned by the Sub-Registrar, that Government has issued notification under

Section 22-A (2) of the Registration Act, prohibiting registration of the properties concerned. If that is so, as held by the Full Bench of this Court in **“Vinjamuri Rajagopala Chary Vs State of Andhra Pradesh¹”**, the remedy available to an aggrieved person is to make an application before the Committee constituted by the Government in accordance with the directions of the Full Bench in Para 35.1 of the said judgment praying to exclude the property from the list of prohibited properties. Unless and until the properties are excluded from the list of prohibited properties, the registering authority cannot entertain the document for registration.

6. Thus, the petitioner has to avail the remedy of appeal, if so advised, under Section 72 of the Act, if according to the petitioner, prohibition under Section 22-A (2) of the Registration Act, has no application. In the alternative, if petitioner has grievance against inclusion of the property in the prohibited list of properties, she must avail the remedy as per the judgment of the Full Bench of this Court.

7. Thus, leaving it open to the petitioner to work out her remedies, as available in law, the Writ Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

5th October, 2017
Rds

P.NAVEEN RAO,J

¹ 2016 (1) ALT (550) (F.B)