

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.10329 OF 2012

ORDER:

The subject matter of the writ petition is an extent of Acs.10-28 cents out of Ac.22-06 Cts in Sy.No.561/1B and a further extent of Ac.0-17 Cts in Sy.No.561/1B of Jammalamadugu Village and Mandal, Kadapa District.

The petitioners pray for writ of Mandamus declaring letter of the 5th respondent bearing PPNo./1 SRO/JMD dated 22.10.2011 as illegal, arbitrary and unconstitutional.

The case of petitioners is that the subject matter of the writ petition stands in favour of choultry under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987. Therefore, the land of a choultry comes within the mischief sought to be prohibited under Section 22-A of the Registration Act, 1908. The petitioners with a view to protecting the property on 22.10.2011 requested the 5th respondent not to entertain a document with the property subject matter for registration. The 5th respondent replied as follows:

“ANDHRA PRADESH BHOODHANA YAGNA BOARD
GANDHI BHAVAN, HYDERABAD

R.No.BYB/76/2011

Dated 20.8.2011

Smt.Vankadhara Samanthakamani
w/o Late Krishnamurthy
Jammalamadugu village and Mandal,
Kadapa District

Sub: Kadapa District – Jammalamadugu Mandal –
Jammalamadugu Village, Sy.No.561/B Extent
Ac.22-06 Cents land – Reg.

Ref: 1. Vankadhara Samanthakamani Application
Dt.3.8.2011.
2. Munsif Court O.S.No.165/1985 Dt.12.5.1988.

The land in Sy.No.561/1B in an extent of Ac.22-06 Cents situated at Jammalamadugu Village and Mandal, Kadapa district is relating to the Bhoothana Board or patta land and the same is 2nd cited as per your application.

After verified the records the land in Sy.No.561/1B in an extent of Ac.22-06 cents situated at Jammalamadugu Village and Mandal, Kadapa District is the land Bhoothana Yagna Land and there is no document in the above and as per the 2nd reference cited the Munsif Court is also not the Bhoothana board and the same is informed.

Hence, Sy.No.561/B an extent of Ac.22.06 cents land is not the Bhoothana Board and the same is informed.

Sd/-
Secretary

Copy to

Inspector General Stamps & Registration, Hyd.
To the Dist.Collector, Kadapa and concerned.”

Mr.N.Jayasurya, appearing for petitioners, conscious of the view taken by a Full Bench of this Court in VINJAMURI RAJAGOPALACHARY & OTHERS v. STATE OF A.P, REP. BY THE PRINCIPAL SECRETARY, REVENUE DEPARTMENT, HYDERABAD & OTHERS¹ and a batch of cases disposed of by a Division Bench of this Court in W.A.No.343 of 2015 and batch, requests the Court to take note of the stand taken by respondents 1 and 2 in the counter affidavit, and give liberty to petitioners to represent to 1st and 2nd respondents for taking steps to protect the subject matter of the writ petition from unauthorized and illegal registrations. To appreciate this contention, the relevant portion of counter affidavit of 2nd respondent is excerpted:

“It is submitted that there were court litigations in between the father of the 4th petitioner and his paternal aunt Smt.V.Lakshmi Tayamma for the partition and separate possession before the Hon’ble District Judge,

¹ 2016(1) ALT550

Kadapa which was numbered as O.S.No.37/56 and later transferred and renumbered as O.S.No.14/1959. The suit was dismissed with an observation and that the said properties cannot be partitioned as it is endowed properties. Aggrieved by the above orders, the said Sri V.Krishna Moorthy filed appeal in A.S.No.152/1960 on the file of High Court of A.P., Hyderabad.

The Hon'ble High Court decreed the suit by setting aside the decree and judgment passed in A.S.No.14/1959 on the file of the Subordinate Judge, Kadapa, which allowing the appeal the Hon'ble Court gave a finding in so far as the land situated in Sy.No.561/A and 561/B an extent of Ac.0.17 Cts. And 10.28 out of 22.06 Cts i.e., items 1 to 3 of A schedule were endowed properties. It is therefore clear that the above property is exclusively meant for the maintenance of Sri Vankadara Guruvappa Choultry and the property is endowed property. All the rights are reserved only to the Choultry.

It is very clear from the forgoing para that the lands in Sy.Nos.561/A and 561/B are the endowed properties and the properties purchased by 6th and 7th respondents father; from Smt.Vankadara Sudhamani D/o Vankadara Lakshmi Thayaramma under a registered sale deed No.4155/1968 is null and void. The said document is not binding either the institution or on the Endowments Departments the endowed lands should not be alienated without prior permission of the Commissioner, Endowments Department, Hyderabad, as required U/s 74 of old act 1966 and U/s 80 of the A.P. of new Act 30/87.

It is submitted that the action of the Sub-Registrar, Jammalamadugu is reprehensible and it is against law when the 4th petitioner's mother issued notice not to register the endowed property of the Choultry, he would have consulted the 1st and 2nd respondents for necessary clarification as the properties of religious and charitable institutions are prohibited for registration provisions of the Registration Act.

It is submitted that the Endowments Department is not a party in the proceedings in W.P.No.29422 of 2011.

It is true that the above said property is prohibited for registration U/s 22(a) (1) (c) of A.P. Registration Act

and no body has got any manner of right what so ever on the property as the Choultry is the rightful owner having perfect title over the properties. The Choultry has been registered U/s 43 of the A.P. Act 30/87 vide proceedings of the Assistant Commissioner, Endowments Departments, Kadapa in R.Dis.No.A5/2276/2012 dated 13.07.2012. It is also got published U/s 6 (c) (1) of the A.P.Act 30/87 by the Commissioner, Endowments Department, Hyderabad under SI.No.1768 vide proceedings in Rc.No.DP2/28284/2012 dated 01.08.2012.”

It is matter of record that the 5th respondent has jurisdiction to refuse to register a document which attracts the prohibition stipulated under Section 22-A of the Registration Act but cannot refuse registering documents at the instance of private individuals or third parties. Having regard to the pleadings of parties and to meet the ends of justice, particularly keeping in perspective the view taken by the Full Bench and also the directions issued by the Division Bench, the writ petition is disposed of by this order without costs:

The petitioners are given liberty to represent, within eight weeks, to respondents 1 to 4 for communication of list of properties by including subject matter of the writ petition to 5th respondent. On receipt of the representation, respondents are directed to examine the record and do the needful to conform the mandate of Section 22-A of the Registration Act within eight weeks thereafter.

Consequently, miscellaneous petitions, if any pending, stand closed.

S.V.BHATT, J

09th March, 2017
Lrkm