

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.1170 of 2009

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.3490 of 2009 dated 27.02.2009, and in Review W.P.M.P.No.11771 of 2009 in W.P.No.3490 of 2009 dated 30.07.2009.

The appellant herein is the State Government. The respondent herein filed W.P.No.3490 of 2009 to declare the refusal of the Sub-Registrar, by his letter dated 16.02.2009, to register the document presented by them as being illegal and arbitrary, and for a consequential direction to the Sub-Registrar to register and release the document in their favour in respect of the land admeasuring Ac.3.36 guntas situated in Survey No.178 of Jalapally Village, Saroornagar Mandal, Ranga Reddy District.

The said writ petition was allowed, and the impugned order was set aside, on the ground that the respondent-writ petitioner had filed O.S.No.1024 of 2001 before the Court of I Additional Senior Civil Judge, Ranga Reddy District against the District Collector, the Mandal Revenue Officer and certain parties for declaration of title and perpetual injunction; the decree, though passed *ex parte*, in the suit on 18.08.2003 was still in operation; and refusal of registration was not justified on this ground. The Learned Single Judge further observed that mere registration of a document did not take away the rights, which otherwise existed, in a different party.

Aggrieved thereby, the State Government filed a review petition contending that the subject land in Survey No.178 belonged to the Government; and the *ex parte* decree, in O.S.No.1024 of 2001, did not confer any right upon the respondent-writ petitioner. This submission

was put forth based on Section 22-A of the Registration Act. The Learned Single Judge reiterated that the decree in O.S.No.1024 of 2001 was still in operation; it had neither been set aside nor suspended by any Court of competent jurisdiction; and, as the review petitioners were parties to the suit, the decree passed therein could not be ignored.

Pursuant to the order of the Learned Single Judge, the subject document was registered and released in favour of the respondent-writ petitioner. It is now brought to our notice by the Learned Government Pleader for Revenue that the *ex parte* decree, in O.S.No.1024 of 2001, was set aside in appeal in A.S.No.356 of 2009 by the II Additional District Judge, Ranga Reddy District by his order dated 21.08.2015; and the suit in O.S.No.1024 of 2001 has been restored, and is pending on the file of the I Additional Senior Civil Judge, Ranga Reddy District. As the very decree, on the basis of which the subject document was sought to be registered, has been set aside, the orders under appeal must also be and are, accordingly, set aside.

Sri T.V.Ramana Rao, learned counsel for the respondent-writ petitioner, would submit that, since the subject document has been registered and released in favour of the respondent-writ petitioner, directing cancellation of the registered document at this stage, more so during the pendency of the suit would cause substantial prejudice to the respondent-writ petitioner; and, instead, the undertaking of the respondent-writ petitioner, that the subject property would not be alienated and no third party rights would be created thereupon during the pendency of the suit, should be recorded.

A copy of the affidavit of undertaking dated 17.07.2017 is taken on record, and the Writ Appeal is disposed of directing the respondent-writ petitioner not to alienate the subject property, or create any third party rights thereupon or change the nature of the land in any manner, pending disposal of the suit in O.S.No.1024 of 2001. The validity of

registered document No.2081 of 2009 shall be subject to the result of the said Suit.

The Writ Appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

19th July, 2017
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Date: 19.07.2017

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