

HON'BLE SRI JUSTICE P. NAVEEN RAO

**WRIT PETITION Nos.37343, 37327 of 2015; 28700, 28719,
28731, 40565, 40658, 40736, 21503, 41657, 42413 of 2016;
2786 and 13270 of 2017**

Dated: 13.09.2017

W.P.No.37343 of 2015:

Between:

Yarra Chandra Mouli, S/o. Sitharamaiah,
Aged about 45 years, occu: Agriculture,
R/o D.No.9-116, Tadikonda Village & Mandal,
Guntur District, A.P.

.... Petitioner

And

The State of Andhra Pradesh, rep.by its
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others.

.... Respondents



The Court made the following:

HON'BLE SRI JUSTICE P.NAVEEN RAO

**WRIT PETITION Nos.37343, 37327 of 2015; 28700, 28719,
28731, 40565, 40658, 40736, 21503, 41657, 42413 of 2016;
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COMMON ORDER:

Heard learned counsel for petitioners, learned Government Pleaders for Revenue (AP) and learned standing counsel for CRDA.

2. The properties claimed by petitioners in these writ petitions as owned by them are included in the notification issued under Section 22-A(2) of the Registration Act, 1908 (Act, 1908), notified vide G.O.Ms.No.197 Revenue (Assn.I) Department, dated 5.5.2016, prohibiting the list of properties enclosed to the said G.O., from alienation and directing the registering authority not to entertain registration of deeds of conveyance presented before the registering authorities. The said G.O. is issued in purported exercise of power vested under Section 22-A(2) read with Section 22-A(1)(e) of the Act, 1908. The claim of the petitioners is that inclusion of the properties belonging to them mentioned in the respective prayers is erroneous. In some of the writ petitions, G.O.Ms.No.197 is under challenge and few writ petitions were filed prior to issuance of G.O.Ms.No.197. However, the issue in all the writ petitions being same, learned counsel for petitioners and learned Government Pleader requested to dispose of all the cases by a common order.

3. The issue of inclusion of properties in the prohibited list, not accepting the documents for registration and the scope of Section 22-A of the Act were elaborately considered by the Full Bench of

this Court in ***Vinjamuri Rajagopala Chary v. State of Andhra Pradesh***¹.

4. In paragraph No.36, Full Bench delineated its findings and directions. It reads as under:

“36. (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.

(viii) The concerned authorities, which are obliged to furnish the lists of properties covered by clauses

¹ 2016 (1) ALT 570 (F.B)

(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."

5. In terms of the directions issued by the Full Bench of this Court, a Committee was constituted by G.O.Ms.No.300, Revenue (Assn.I) Department, dated 05.07.2016. During pendency of these Writ Petitions, some persons who were aggrieved by such inclusion have submitted applications before the Committee constituted by

5

the said G.O. The Committee has examined the grievances of those persons. The Committee instead of taking a decision has, in turn, requested the Government to take necessary action.

6. Learned counsel representing the petitioners placed before this Court the letter dated 02.06.2017 addressed by the Chief Commissioner of Land Administration and Special C.S. and Chairman of State Level Grievance Redressal Committee, to the Principal Secretary to the Government and contended that the Committee erred in not deciding the issue and referring the matter to the Government and in such a case it cannot be said as an efficacious remedy. Paragraph Nos.8 and 9 of the letter read as under:

“8. In view of the above grounds, the Committee has decided to refer these cases to the Government to consider them for deletion from prohibitory lists as has been done in the G.O.Ms.No.1015, Revenue (Assignment.III/2) Department, dated 16.10.2015. Moreover, it is pertinent to reiterate that CCLA vide Ref.No.Assn.I(1)/162/2015, dated 01.05.2015 and 20.10.2016 has already requested the Government to treat all the assigned lands prior to 1954 as patta lands to settle a number of cases which are pending in Revenue Department and in Civil Courts.

9. Hence, the Government is requested to issue orders in the matter for taking necessary action.”

7. A reading of the above paragraphs would show that the instead of deciding the issue, in turn addressed the Government to take appropriate decision.

8. In this context, it is appropriate to note the directions issued by the Full Bench of this Court in paragraph No.35.1 in **Vinjamuri Rajgopala Chary**. It reads as under:

“35.1 Further, as noticed earlier the State Government is empowered either suo motu or on application to consider the grievances against

inclusion of any property in the prohibitory list under Section 22-A of Registration Act and is also empowered to de-notify either in full or in part the notification issued under sub-section (2). In our opinion, the redressal mechanism is available only with respect to notifications published relating to the properties falling under clause (e) of Section 22-A. Hence, any grievance of the parties with reference to the properties covered by clauses (a) to (d) will have to be questioned by the aggrieved parties only by appropriate proceedings before a competent Court and the adjudication by such Court would be final. Further, so far as notified properties falling under clause (e) are concerned, the redressal mechanism under sub-section (4) of Section 22-A would be able to effectively address the grievance provided the mechanism thereunder is effective, expeditious, fair, and judicious. Thus, in order to make an effective redressal mechanism, we deem it appropriate to direct the respective Governments of both the States to constitute a Committee or establish a Forum within time frame, may be comprising of Principal Secretary of Revenue, Director of Survey and Land Records and a retired Judicial Officer of the rank of a District Judge which shall meet periodically to consider the grievances of the persons affected by the notifications. The Committee shall be empowered to examine relevant records and then pass a reasoned order either accepting or rejecting the grievance by either confirming/deleting/modifying any such property from the notified list of properties. In our view, such orders passed by the Committee shall be binding on the State as well as on the aggrieved person and in the event of any of them being aggrieved thereby, they shall have to approach a competent Court of Law for redressal of their grievance.”

9. In terms of the directions issued by Full Bench in paragraph No.35.1, it is the Committee, which has to take a decision as to whether inclusion of the properties in the prohibited list under Section 22-A (1)(e) of the Act is valid or to uphold the decision of the Government. Decision made by the Committee is binding on the aggrieved persons as well as on the Government and aggrieved persons have to work out their remedies under common law. Thus, the Committee could not have requested the Government to take appropriate decision or solicited the Government Orders and

the said request of the Committee is *ex facie* illegal in the teeth of the directions issued by the Full Bench of this Court.

10. In fact Government itself has realized that there is some ambiguity in the orders issued in G.O.Ms.No.300, dated 05.07.2016 and issued amendment to the said G.O., notified vide G.O.Ms.No.394 Revenue (Assn.I) Department, dated 04.09.2017, incorporating paragraph-3A after paragraph-3 of G.O.Ms.No.300 dated 05.07.2016. The said paragraph reads as under:

“In the said order, after para 3, the following shall be inserted namely:-

(3A). The Committee shall be empowered to examine relevant records and then pass a reasoned order either accepting or rejecting the grievance by either confirming/deleting/modifying any such property from the notified list of properties in final. Such orders passed by the Committee shall be binding on the State as well as on the aggrieved person and in the event of any of them being aggrieved thereby, they shall have to approach a Competent Court of Law for redressal of their grievance”.

11. Thus, the request made by the Chief Commissioner of Land Administration on behalf of the Committee in the letter dated 02.06.2017, as extracted above, being contrary to the directions of the Full Bench of this Court, to that extent, the extracted portion of the letter, dated 02.06.2017, is set aside and the Committee is directed to examine the claims as already ventilated or that may be ventilated against inclusion of properties in the prohibited list.

12. In the cases on hand, petitioners have not made any representation/application seeking to exclude the properties included in the prohibited list. W.P.No.43481 of 2016 & batch,

which concern the same G.O., were disposed of by order dated 30.08.2017, directing the Committee appointed in pursuant to the Full Bench to examine the grievances which are already made before the Committee or which may be made. In the cases on hand, petitioners have not made any application/representation before the Committee. Petitioners are now granted liberty to make such applications/representations by enclosing all the documents in support of their claim.

13. The Committee shall consider all such requests objectively before taking a decision. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. It is also open to any affected parties to submit their objections opposing deletion of any property from the list of prohibited properties within a period of three weeks from today. It is needless to observe that decision taken by the Committee has to be informed to the registering authority.

14. With the above observations and directions, the Writ Petitions are accordingly disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these Writ Petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 13.09.2017
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