

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.5890 OF 2008

ORDER:

The petitioner had presented a document styled as Sale Deed for registration before the 2nd respondent. The 2nd respondent kept it pending as Document No.P/881/2006 for scrutiny for list of Government Lands.

2. The petitioner then filed W.P.No.19760 of 2006 for direction to the 2nd respondent to dispose of the same. The 2nd respondent then referred the matter to the 1st respondent and the 1st respondent then passed the impugned order in proceedings No.12650/E/2007, dated 23.2.2008 refusing to register the document on the ground that the property belongs to Government, that it was notified poramboke land under Section 22-A of the Registration Act, 1908 (for short, the Act) (A.P. Gazette Notification No.560 dated 1.8.2005) and that the transfer of the said property was opposed to public policy.

3. The said Section 22-A of the Registration Act was inserted by A.P. Amendment Act No. 4 of 1999 and G.O.Ms.No.365, Revenue (I) Department, dated 30.5.2000 was also issued by the State Government in exercise of its powers under Section 22-A of the Act.

4. The other notifications were also issued invoking said power under the Act, including notification dated 1.8.2005.

5. Writ Petitions had been filed in this Court to strike down Section 22-A of the Registration Act, 1908 as inserted by Andhra Pradesh Act No.4 of 1999 and the notifications issued thereunder.

6. By Common Judgment dt. 7.12.2005 in W.P.No.14099 of 2003 and batch, a Division Bench of this Court, following the judgment of the

Supreme Court in **State of Rajasthan v. Basant Nahata** ¹ struck down Section 22-A of the Act (as inserted by Andhra Pradesh Act No.4 of 1999) and held it is violative of Article 14 of the Constitution of India and it quashed the notifications issued under the said provision by the State Government.

7. Therefore, the basis of the impugned order passed by the 1st respondent i.e., the notification issued on 1.8.2005 issued under Section 22-A of the Registration Act, is deemed to be destroyed. Hence, the impugned order cannot be sustained.

8. Accordingly, the impugned order is set aside and the Writ Petition is disposed of directing the 1st respondent to consider the issue of registration of document presented by the petitioner afresh in accordance with law within six weeks from the date of receipt of a copy of this order after issuing notice to the petitioner. No costs.

As a sequel, miscellaneous petitions if any pending in the Writ Petition shall stand closed.

Dt. 07.02.2017
gbs

M.S. RAMACHANDRA RAO,J

¹ (2005) 12 SCC 77