

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

APPEAL SUIT No.799 OF 2012

JUDGMENT:

This appeal is filed challenging the decree and judgment dated 04.06.2012 in O.S. No.686 of 2009 passed by the Additional Senior Civil Judge, Tirupathi, whereby the trial court dismissed the suit filed for direction against the first respondent/ first defendant to execute registered sale deed dated 29.03.2006 in favour of the appellant/ plaintiff.

For convenience sake, the parties to the suit will hereinafter be referred as arrayed before the trial court.

The brief facts of the case are that the plaintiff allegedly purchased the suit schedule property belonging to V.Lakshmiram Nayak, who purchased the same under registered sale deed dated 06.12.1997 from a lawful owner. After demise of the said V. Lakshmiram Nayak, the suit schedule property was devolved upon P.Ravindhra Nayak and grand son Surendra Nayak. They sold the schedule property to the plaintiff for valid consideration of Rs.10,95,000/- on 29.03.2006 under sale deed. When the document was tendered for registration before the first defendant, he refused to register the same by Order dated 22.09.2007. Aggrieved by the order of the first defendant for refusal to register the document, the plaintiff preferred Appeal No.23 of 2007 before the second defendant seeking direction to the first defendant to register sale deed dated 29.03.2006. The second defendant, without considering the request of the plaintiff, dismissed the appeal on the assumption that the schedule property belongs to the Religious Charitable and

Endowments Institution, but this conclusion is not based on any material. The plaintiff and his predecessors are in possession of the suit schedule property for the past 100 years, but the first defendant refused to register the document, as if the registration of schedule property is prohibited under Section 22A(1)(c) of the Registration Act. In fact, no notification was issued by the Government in official gazette declaring the registration of document pertaining to the transfer of the suit schedule property is prohibited under the above section of law. After dismissal of the appeal by the second defendant, the plaintiff filed the suit seeking direction against the first defendant to register sale deed dated 29.03.2006.

The second defendant filed written statement denying the material allegations *inter alia* contending that the said P.Lakshmiram Nayak did not purchase the property under registered sale deed and sale of the property in favour of the plaintiff by the legal heirs of the deceased Lakshmiram Nayak, is also false. The Administrative Officer of Sri Swamy Hathiramji Mutt, Tirupati, in his letter R.C. No.B4/1399/2004 dated 27.11.2004 furnished list of landed property belongs to Mutt with a request not to register the alienations of the said land without orders of the Government or Commissioner of Endowment, Government of Andhra Pradesh, Hyderabad. On 30.05.2005 another list of properties were furnished to an extent of Ac.132.30 cents specifying the survey numbers with a request, not to entertain the registration of documents for the said survey numbers of the landed property. The Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh, Hyderabad, through Memo No.G1/12778/03, dated 26.04.2004, instructed the

registration authorities not to register the documents pertaining to land belonging to Sri Swamy Hathiramji Mutt as it is ecclesiastical matter like wakf properties etc., the first defendant kept the suit document dated 29.03.2006 pending basing on the said memo and finally passed refusal orders on 22.09.2007 as per Section 22A(1)(c) of the Registration (Andhra Pradesh Amendment) Act (Act 19 of 2007). The Mahanth varu of the said Mutt also issued letter in RC. No.B4/918/2007 dated 01.08.2008 furnished another list of survey numbers and requested the authorities not to entertain registration in respect of the said survey numbers of landed property. The second defendant also dismissed the appeal as per Section 22A(1)(c) of the Registration Act published in Andhra Pradesh official gazette on 20.06.2007 and thus the order passed by the authorities is in accordance with law.

Based on the above pleadings, the trial court framed the following issues:

- “1) whether the plaintiff is entitled for registration of sale deed as prayed for?
- 2) Whether the defendants are liable to register the sale deed?
- 3) To what relief?”

During trial, on behalf of the plaintiff, P.W.1 was examined and got marked Exs.A.1 and A.2. On behalf of the defendants, V.Kiran Kumar, District Registrar, Balaji Registration District, Tirupati, was examined as D.W.1 and got marked Exs.B.1 to B.6.

Upon hearing argument of both the learned counsel, and considering the material available on record, the trial court dismissed the suit on the ground that the suit schedule property belongs to

Religious Charitable Endowment, as per Section 22A(1)(c) of the Registration Act, and the registration of documents pertaining to the land belonging to the Religious Charitable Endowment is prohibited.

Aggrieved by the Judgment and Decree in dismissing the suit filed by the plaintiff/ appellant herein, the present appeal is filed on various grounds mainly contending that the trial court did not consider the procedure to be followed by the Government i.e. by issuing gazette notification prohibiting registration of land covered by survey numbers belonging to Religious Charitable Endowment. But, in the absence of such Government Order or publication of said list of lands belonging to Religious Charitable Endowment, dismissal of the suit by the trial court is erroneous and prayed to set aside the order passed by the trial court.

During hearing, Sri A.Chandraiah Naidu, learned counsel for the appellant/ plaintiff, reiterated the argument and the contentions raised before the trial court and pointed out that in the absence of G.O., and publication in gazette specifying the list of properties belonging to Hindu Religious Charitable Endowment, prohibition of registration of certain lands exercising power under Section 22A(1)(c) of the Registration Act, and refusal to register the sale deed is erroneous.

Whereas, the learned Government pleader for Stamps and Registration appearing for the respondents/ defendants contended that this matter is squarely covered by the Full Bench judgment of this court in **Vinjamuri Rajagopala Chary and Others v. State of Andhra Pradesh rep. by Principal Secretray, Revenue**

Department, Hyderabad and others¹. He further submitted that the first defendant has no objection to follow the guidelines issued by the Full Bench Judgment of this court and after following the guidelines issued therein, the first defendant will take necessary steps in this regard.

In view of the contentions raised by both the learned counsel, the point that arises for consideration is,

Whether the land covered by sale deed dated 29.03.2006 executed by P.Ravindra Nayak and his son Surendra Nayak in favour of the appellant/plaintiff, belongs to Religious Charitable Endowment i.e. Hathiramji Mutt? If so, whether the registration of document pertaining to the land belonging to Hathiramji Mutt is prohibited under Section 22A(1)(c) of the Registration Act? If not, whether the order passed by the first defendant, confirmed by the second defendant in appeal and the judgment and decree passed by the trial court be sustained?

POINT:

According to the plaintiff, the suit schedule property belongs to P.Lakshmiram Nayak, who was in possession during his life time and thereafter it was devolved upon his son - P.Ravindra Nayak and grand son - Surendra Nayak as per succession and they sold the property to the plaintiff for valuable consideration of Rs.10,95,000/-, executed sale deed on a non judicial stamp paper on 29.03.2006, when it is presented for registration before the first defendant, he gave an intimation of refusal of registration dated 22.09.2007 on the ground that the land covered by the sale deed belongs to Hathiramji Mutt and the registration of it is prohibited under Section 22A(1)(c) of the Registration Act. The appeal preferred before the second respondent is also ended in dismissal on the same grounds and the

¹ 2016(1) ALT 550 (F.B.)

suit was also dismissed confirming the orders passed by the first defendant.

During pendency of this appeal, an identical question came up before the Full Bench of this court in **Vinjamuri Rajagopala Chary and Others v. State of Andhra Pradesh rep. by Principal Secretary, Revenue Department, Hyderabad and others** referred above, wherein this court issued the following guidelines:

- (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 (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.

In view of the guidelines laid down by the Full Bench of this Court in **Vijamuri Rajagopala Chary v. State of Andhra Pradesh** referred above, the concerned authorities are bound to issue notification as directed and shall afford reasonable opportunity after preparation of list of properties exempted under Section 22A(1)(c) of the Registration Act. Hence, I find that it is a fit case to remand the matter to the first defendant i.e. Sub-Registrar, Renigunta, Sri Balaji Registration District, directing him to follow the guidelines laid down by the Full Bench of this Court in **Vijamuri Rajagopala Chary v. State of Andhra Pradesh** referred above, and to register the document.

With the above direction, the order passed by the first defendant, confirmed by the second defendant and the Decree and

Judgment passed by the Senior Civil Judge, Tirupati, in O.S. No.686 of 2009 are hereby set aside, remanding the matter to the first defendant for fresh consideration in view of the guidelines issued by the Full Bench of this court referred above and in case no such G.O. was issued, the first defendant is directed to register the document.

Accordingly, the appeal is allowed. No costs.

Miscellaneous petitions, if any, pending in the appeal shall stand closed.

M.SATYANARAYANA MURTHY, J

12.04.2017
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