

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**Writ Appeal No. 1863 of 2017
and
Writ Petition No.27061 of 2016**

Common 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.V.M.P. No. 4824 of 2016 in W.P.M.P. No. 33805 of 2016 in W.P. No. 27061 of 2016 dated 27.10.2017.

The appellants herein are the respondents in the Writ Petition. The 1st respondent herein filed the Writ Petition seeking a mandamus to declare the action of the Joint Sub-Registrar, Visakhapatnam in rejecting registration of the sale deed dated 30.6.2016, presented for registration in pending document No. P796/2016, as illegal and arbitrary; and to, consequently, direct the 4th respondent therein to receive, register and release the sale deed dated 30.6.2016 in respect of 636.427 square yards or 532.136 square meters of land together with an A.C. Sheet shed admeasuring 678 square feet.

By the order under appeal the learned Single Judge made the earlier interim order, granted on 16.8.2016, absolute and dismissed the vacate stay petition. After taking note of the fact that similar interim orders were passed in W.P.M.P. No. 18749 of 2016 in W.P. No. 15106 of 2016 dated 2.6.2016, the learned Single Judge directed the Joint Sub-Registrar, Visakhapatnam to receive, register and release the sale deed dated 30.6.2016 in

respect of the subject property and made it clear that the action of the 4th respondent therein would be subject to the orders passed in W.P. No. 8331 of 2016 and in the present Writ Petition.

Learned Government Pleader for Revenue would submit that refusal by the Joint Sub-Registrar, to register the sale deed with respect to the subject property, is on the ground that an order was passed by the District Collector, Visakhapatnam under Section 22-A(1) of the Registration Act, 1908 (hereinafter referred to as “the Act”) prohibiting registration of the subject property; it is only if the said order, passed by the District Collector, is set aside could the Joint Sub-Registrar have been directed to register and release the sale deed; the 1st respondent-writ petitioner has not even questioned the order passed by the District Collector, Visakhapatnam under Section 22-A(1) of the Act; and as long as the said order, passed by the District Collector under Section 22-A(1) of the Act, is not set aside, the order, directing registration and release of the sale deed, could not have been passed as the Joint Sub-Registrar is disabled from registering the document once an order is passed by the District Collector under Section 22-A(1) of the Act.

On the other hand, Sri O. Manohar Reddy, learned counsel for the 1st respondent-writ petitioner, would draw our attention to the interim order passed in W.P.M.P. No. 10562 of 2016 in W.P. No. 8331 of 2016 dated 15.3.2016 wherein, on a challenge to the validity of the order of the District Collector by one Smt. Rani Kamala Devi, a learned Single Judge of this Court had suspended the operation of the notification dated 23.12.2015 issued by the

District Collector, Visakhapatnam in exercise of his powers under Section 22-A(1) of the Act. He would submit that, since the order passed by the District Collector has been suspended, the Joint Sub-Registrar is obligated to register and release the sale deeds with respect to all the properties in the survey numbers for which the notification was issued under Section 22-A(1) of the Registration Act.

The validity of the order passed by the District Collector, Visakhapatnam, under Section 22-A(1) of the Registration Act, has not even been subjected to challenge in the Writ Petition, and the only relief which the 1st respondent-writ petitioner had sought therein was for registration and release of the sale deed presented by them for registration. The 1st respondent-writ petitioner is, admittedly, not a party to W.P. No. 8331 of 2016. Even in the absence of a challenge, to the validity of the order passed by the District Collector under Section 22-A(1) of the Act in the present Writ Petition, the relief which could have been granted, only on the order passed by the District Collector under Section 22-A(1) being set aside, could not have been granted even in the absence of a challenge to the validity of the notification issued under Section 22-A(1) of the Act.

As the order of the learned Single Judge, in effect, requires the Joint Sub-Registrar to register and release the sale deed relating to lands which are prohibited from registration under Section 22-A(1) of the Registration Act, we consider it appropriate to set aside the order under appeal.

After we passed the order Sri O. Manohar Reddy, learned counsel for the 1st respondent-writ petitioner, submitted that, instead of keeping the Writ Petition pending on the file of this Court, the Writ Petition itself be disposed of granting the 1st respondent-writ petitioner liberty to file a Writ Petition afresh questioning the validity of the order passed by the District Collector, Visakhapatnam under Section 22-A(1) of the Act, and to seek a consequential direction to register and release the sale deed.

In view of the submission of Sri O. Manohar Reddy, learned counsel for the 1st respondent-writ petitioner, the Writ Petition is dismissed as withdrawn granting liberty to the 1st respondent-writ petitioner to file a Writ Petition afresh questioning the validity of the order passed by the District Collector, Visakhapatnam under Section 22-A(1) of the Act, and to seek a consequential direction to register and release the sale deed.

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)

(GUDISEVA SHYAM PRASAD, J)

6th December, 2017

pnb

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**



**Writ Appeal No. 1863 of 2017
and
Writ Petition No.27061 of 2016**

Date: 6.12.2017

pnb