

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL No.79 OF 2018

ORDER: (per 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.M.P. No.50361 of 2017 dated 04.12.2017. The unofficial respondents in this appeal had filed the Writ Petition questioning the action of the sub-registrar in refusing to register the documents presented by them for registration. They sought a mandamus to declare the action of the sub-registrar in not receiving and registering the documents submitted by the petitioners in respect of their plots, basing on the proceedings issued by the 2nd respondent dated 25.04.2016, as being illegal, arbitrary and in violation of the provisions of the Registration Act.

By way of interlocutory relief, the petitioners sought a direction to the sub-registrar to receive and register the documents presented by the petitioners, without reference to the proceedings of the 2nd respondent dated 25.04.2016, pending disposal of the Writ Petition. It is evident, from a bare reading of both the interim prayer and the main prayer, that the interim relief sought is identical to the main relief sought for in the Writ Petition.

In the order under appeal the Learned Single Judge observed that, since the subject lands were recorded in the proceedings of the District Collector as "Christian properties", the subject lands could not be registered; what Section 22-A(1)(c) permitted was only to include properties of Hindu Religious and Endowments and Wakfs in the prohibitory order list; no such provision has been made with respect to

Christian properties; and since the prohibitory order list itself refers to these properties as “Christian properties”, it could not have been included in the prohibitory order list under Section 22-A of the Registration Act. Interim directions were issued to the Sub-Registrar to receive and register the documents.

Learned Government Pleader for Revenue (Assignment) would draw our attention to the list of prohibitory properties which, at page 34, relates to the land in Survey No.364. While several extents of lands in Sy. No.364 are described only as Government lands, one entry relating to Sy. No.364 records the description of the lands as Government lands, and the holder’s name as “Christian property”. It is no doubt true that the 5th respondent had, in his order, refused to entertain registration of the petitioners land on the ground that these were all Christian properties. The fact, however, remains that the list forwarded by the District Collector, to the Commissioner and Inspector General of Stamps, describes these lands as Government lands, except with respect to one such item in Sy. No.364 wherein the holder’s name is alone recorded as “Christian property”. According to the Learned Government Pleader, since these lands are all Government lands, and the list forwarded by the District Collector is under Section 22-A(1)(b) of the Registration Act, the Learned Single Judge erred in issuing the interim order under appeal.

Sri B. Srinivas, Learned Counsel for the respondent-writ petitioners, would submit that the petitioners had purchased these properties several decades ago from Christian missionaries, and these lands are not Government lands. It would be wholly inappropriate for us to express any opinion on the rival submissions as to whether the

subject land is Government land or whether the land belongs to Christian missionaries. The question whether the subject lands are Government lands justifying the District Collector forwarding a list of these lands to be included in the Prohibitory Order Book under Section 22-A(1)(b) of the Act, or whether they belong to the Christians missionaries rendering the impugned order passed by the Sub-Registrar illegal, are all matters which are required to be examined in the Writ Petition. We are, however, satisfied that the Learned Single Judge ought not to have granted the interim relief which is, in effect, the main relief sought for in the Writ Petition, without giving the appellants herein (respondent in the Writ Petition) a reasonable opportunity of filing their counter-affidavit.

The order under appeal is set aside, and the WPMP is restored to file. The appellants shall file their counter-affidavit within three weeks from today. It is open to Sri B. Srinivas, Learned Counsel for the respondent-writ petitioners, to request the Learned Single Judge to take up the WPMP any day after three weeks.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

M. GANGA RAO, J

Date: 24.01.2018

MRKR