

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.82 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the ad-interim order passed by the learned Single Judge in WPMP No. 49829 of 2017 in W.P. No. 40161 of 2017 dated 28.11.2017. The official respondents in the Writ Petition have preferred this appeal against the interlocutory order passed by the learned Single Judge granting interim direction as prayed for.

In the order under appeal, the learned Single Judge observed that, having regard to the report of the Tahsildar, Srikalahasti addressed to the District Collector, Chittoor in proceedings dated 11.9.2012 and the order of the District Registrar (appellate authority under Section 72 of the Registration Act, 1908) in Appeal No. 3 of 2014 dated 31.8.2016, interim direction should be granted directing the Sub-Registrar, Srikalahasti to receive/entertain the documents presented for registration with respect to the land of respondents 1 to 4 herein, suspending the memo dated 5.10.2017 and the notification under Section 22-A(1)(c)(Annexure-III) issued by the Director and Inspector General, Stamps and Registration, Vijayawada, and the letter of the Commissioner of Endowments dated 2.9.2017.

Learned Government Pleader for Revenue (Assignment) would draw our attention to the order passed by the District Registrar in Appeal No. 3 of 2014 dated 31.8.2016 wherein the District Registrar observed that, while the subject lands were included in the prohibitory list communicated by the Commissioner of Endowments in the year 2014, the said survey number was not included in the latest list dated 5.7.2016 which was forwarded in supersession of all the earlier lists; and, therefore,

registration of the subject document was being ordered, if presented within thirty days. According to the learned Government Pleader, after the order passed by the District Registrar on 31.8.2016, the Commissioner of Endowments had forwarded another list of lands, prohibited from registration, vide letter dated 2.9.2017; and, consequently, the earlier recommendation made by the Tahsildar, or the order passed by the District Registrar, would not justify the interim order passed by the learned Single Judge.

The main relief sought for in the Writ Petition is for a mandamus to declare the action of the appellants herein in including the subject land in the prohibitory order list vide memo dated 5.10.2017, and the notification issued pursuant thereto, as illegal and arbitrary. As long as the subject land remains in the prohibitory lands list, it cannot be subjected to registration under the Registration Act, 1908. It is only if, and after, the Writ Petition is allowed, and the subject land is deleted from the list of lands prohibited for registration, can the consequential direction sought for in the Writ Petition, which is for the Sub-Registrar to entertain the document presented for registration, be granted. The interim relief sought for is as a consequence of the main relief sought for in the Writ Petition, and could have only been granted after the Writ Petition is allowed and the order impugned therein is set aside. Such an order would, ordinarily, not be passed at the stage of admission for that would, in effect, amount to allowing the Writ petition itself at the stage of admission, without giving the appellants (respondents in the Writ Petition) an opportunity of being heard.

We consider it appropriate, therefore, to set aside the order under appeal and restore the WPMP to file. The appellants shall file their counter-affidavit within three weeks from today. It is open to Sri W.V.B. Shravan, learned counsel for the respondents-writ petitioners, to request

the learned Single Judge to take up the WPMP any day after three weeks from today.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

25th January, 2018

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Date: 25.1.2018

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