

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

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

Writ Appeal No.137 of 2018 & Writ Petition No.39866 of 2017

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.P.M.P.No.49424 of 2017 in W.P.No.39866 of 2017 dated 27.11.2017.

In the order under appeal, the Learned Single Judge recorded the submission of the learned Government Pleader for Revenue (Assignment), on instructions, that the subject land is not included in any list of prohibited properties issued under Section 22-A of the Registration Act, 1908, and observed that, if that be so, the Sub-Registrar, Kanigiri, Prakasam District could not refuse to register the document, presented by the respondent-writ petitioner for registration, in respect of the subject lands. The Sub-Registrar was directed to receive and register the document presented for registration.

Learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellants, while fairly stating that the subject lands are not included in the list of prohibited properties under Section 22-A of the Act, would draw our attention to the letter addressed by the Sub-Inspector of Police, Kanigiri P.S to the Sub-Registrar, Kanigiri dated 08.08.2012 referring to a complaint made by one Sri P. Udayabhanu on 25.02.2012 alleging that the accused had created fake documents, and got them registered in favour of one Sri Shaik Muneer Basha, they had divided the land into plots, and had sold them to others. A copy of the sale deed enclosed to the writ petition, is dated 02.05.2011 which is prior to the letter addressed by the Sub-Inspector of Police to the Sub-Registrar, Kanigiri on 08.08.2012. The said sale deed records the name of the vendor as Shaik Peda Mastan and the vendee as Shaik Muneer Basha.

The respondent-writ petitioner claims to have purchased an extent of Ac.16.16 cents from Shaik Muneer Basha, and seeks registration of the sale deed.

It is not known whether any action was taken pursuant to the complaint filed by Sri P.Udayabhanu in Crime No.30/12 on the file of Kanigiri P.S. While the learned Government Pleader for Revenue (Assignment) would submit that, in view of Section 102 Cr.P.C, the Sub-Registrar is disabled from registering the property, Section 102(1) Cr.P.C confers power on a police officer to seize any property which may be alleged or suspected to have been stolen or which may be found under circumstances which create suspicion of the commission of any offence. It is not even the case of the Sub-Registrar that the Sub-Inspector of Police, Kanigiri has seized the property. In any event, registration of the document would not disable the police officer from seizing the property, under Section 102(1) Cr.P.C, if he is required to do so.

While we see no reason to interfere with the order under appeal, in so far as the Sub-Registrar, Kanigiri was directed to receive the document presented for registration, the fact remains that, under Section 71 of the Registration Act, 1908, the Sub-Registrar has been conferred the power to refuse registration for reasons to be recorded in writing. Suffice it, therefore, to modify the order under appeal and, while directing the Sub-Registrar, Kanigiri to receive the document presented by respondent-writ petitioner for registration, to direct him to consider the respondent-writ petitioner's request for registration and take action thereupon, in accordance with law, with utmost expedition and, in any event, not later than one month from the date of presentation of the document.

Both Sri G. Venkateswarlu, learned counsel for the respondent-writ petitioner, and the learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellants, would agree that, in the light of the order now passed by us, the cause in the writ petition does not survive.

Both W.A.No.137 of 2018 and W.P.No.39866 of 2017 are 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.S.K.JAISWAL, J)

02nd February, 2018

Note: Issue C.C by 07.02.2018.
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Date: 02.02.2018

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