

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No.168 of 2018

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

This appeal, under Clause 15 of the Letters Patent, is filed against the interim order passed by the learned Single Judge in WPMP No. 49801 of 2017 in W.P. No. 40135 of 2017 dated 28.11.2017. The appellants herein are the respondents in the Writ petition. The respondent-writ petitioner filed the Writ Petition seeking a mandamus to declare the action of the Joint Sub-Registrar, Macherla, Guntur District, in not receiving and processing the document relating to the sale of agricultural patta lands in an extent of Acs.0.64 cents in Survey No. 43 situated at Rayavaram Village, Macherla Mandal, Guntur District, as arbitrary and illegal; and to, consequently, direct the Joint Sub-Registrar to receive and process the documents relating to an extent of Acs.0.64 cents of land in Survey No. 43 situated at Rayavaram Village, Macherla Mandal, Guntur District without insisting on a 'No Objection Certificate'.

While the Writ petition was filed on 27.11.2017, the interim order under appeal was passed on the very next day ie, on 28.11.2017. In the order under appeal, the learned Single Judge observed that, having issued pattadar passbooks and title deeds to the respondent-writ petitioner stating that the subject land is owned by her, it is not open to the Joint Sub-Registrar to now refuse to register the same in favour of a third party on the ground that it is a road; there is a presumption under Section 6-A(5) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 that the title deed issued is genuine; therefore, there shall be interim direction as prayed for; however, the registration would be subject to the result of the Writ Petition.

The relief sought for in the WPMP is identical to the relief sought for in the main Writ Petition. While the learned Government Pleader for

Revenue (Assignment) would draw our attention to certain documents to submit that the Government “path” is also included in the list of prohibited properties under Section 22-A of the Registration Act, it is unnecessary for us to examine these contentions in as much as, ordinarily, this Court would not grant the main relief at the admission stage without giving the appellants (respondents in the Writ Petition) an opportunity of filing their counter affidavit. If, as is now contended before us by the learned Government Pleader for Revenue (Assignment), these lands are included in the list of prohibited properties; and in the absence of a challenge thereto, and till the subject lands are excluded from the said list, the Joint Sub-Registrar would be precluded from registering alienation of these properties.

We consider it appropriate, therefore, to set aside the order under appeal and restore WPMP No. 49801 of 2017 to file. The appellants shall file their counter-affidavit, in the Writ Petition, within three weeks from today. It is open to the Learned Counsel for the respondent-writ petitioner to request the learned Single Judge to take up WPMP No. 49801 of 2017 any day after three weeks. Suffice it to make it clear that the WPMP shall be heard and decided on its merits, without being influenced either by the order under appeal or the order now passed by us.

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

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

26th February, 2018

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Date: 26.2.2018

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