

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE Ms JUSTICE J.UMA DEVI**

WRIT APPEAL No.189 of 2018

ORDER: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This Writ Appeal, under Clause 15 of Letters Patent, is preferred by the State against the order passed by the learned Single Judge in W.P.No.10045 of 2017 dated 27.11.2017.

The respondents herein filed W.P.No.10045 of 2017 seeking a mandamus to declare the action of the Sub-Registrar, Renigunta, Chittoor District, in not furnishing the market value of their lands in Sy.No.661/2A/1A admeasuring Ac.0.24 cents; Sy.No.661/3A admeasuring Ac.0.40 cents; Sy.No.661/2B/1 admeasuring Ac.1.66 cents; Sy.No.661/2A/1B admeasuring Ac.0.24 cents; Sy.No.661/3B admeasuring Ac.0.40 cents; and Sy.No.661/2B/2 admeasuring Ac.1.66 cents at Surappakasam Village, Renigunta Mandal, Chittoor District, as illegal, arbitrary and in violation of principles of natural justice. A consequential direction was sought to the Sub-Registrar to receive and register the documents, presented by the respondents, in respect of the subject lands.

On his attention being drawn to the fact that the Governor of Andhra Pradesh had, in the exercise of his powers under clause (e) of sub-section (1) of Section 22-A of the Registration Act, 1908 (the Act), prohibited registering of properties, in the annexure to G.O.Ms.No.215 Revenue

(Assn.I) Dept, dated 13.05.2016, the learned Single Judge declared the said G.O. as arbitrary and illegal on the ground that inclusion of the lands, which were assigned prior to G.O.Ms.No.1142 dated 18.06.1954, in the list of properties prohibited from registration, was illegal.

Section 22-A(1)(e) of the Act stipulates certain classes of documents prohibited from Registration and, among such class of documents, are any documents or class of documents pertaining to the properties of the State Government, which may, by notification, prohibit registration in which the avowed or accrued interests of the State Government are likely to adversely affect their interest. Once the land is included in the list of properties, prohibited from registration under Section 22-A (1) of the Act, Section 22-A(3) thereof requires the registering officer to refuse to register such documents.

While the submission of Sri K.Srinivas, learned Counsel for the respondents, that the learned Single Judge was justified in holding against the appellant - State on merits, has considerable force, the fact remains that, in exercise of its jurisdiction under Article 226 of the Constitution of India, this Court would set aside a Government Order only when the said order is subjected to challenge in the writ petition. The action of the State Government in exercising its powers under Section 22-A(e) of the Act, and in including the subject lands in the list of properties prohibited from registration, was not under challenge in W.P.No.10045 of 2017.

It is only if the validity of G.O.Ms.No.215 dated 13.05.2016 had been subjected to challenge in W.P.No.10045 of 2017 would the learned Single Judge have been justified in declaring it illegal, arbitrary and in violation of Article 14 of the Constitution of India and, thereafter, direct registration of the subject property. In the absence of any challenge thereto, the order of the learned Single Judge, declaring the said G.O illegal, necessitates being set aside.

The order under appeal is set aside, and the Writ Appeal is allowed. It is, however, made clear that this order shall not disable the respondents herein from questioning the validity of G.O.Ms.No.215, dated 13.05.2016, and praying that it be quashed, in appropriate legal proceedings. Miscellaneous Petitions pending, if any, shall also stand disposed of. However, in the circumstances, without costs.

RAMESH RANGANATHAN, ACJ

J.UMA DEVI,J

Date: 21.06.2018
 usd

