

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

Writ Appeal No.132 of 2018 & W.P.No.39727 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.49253 of 2017 in W.P.No.39727 of 2017 dated 13.12.2017 whereby the Learned Single Judge, having regard to the proceedings of the Sub-Collector, Madanapalle dated 10.01.2017 requesting the District Collector, Chittoor to delete the subject lands from the list communicated under Section 22-A of the Registration Act, 1908 to the Sub-Registrar, Madanapalle, directed the Sub-Registrar to receive the documents presented by the respondent-writ petitioner for the purpose of registration; and to register the same in accordance with the provisions of the Registration Act, 1908 (for short "the Act") and the Indian Stamp Act, 1899 without reference to the said list communicated to him by the District Collector within four weeks.

While the submission of the learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellants, that this order, in effect, amounts to granting the main relief sought for in the writ petition is not without merit, Sri Bhaskar Gandham, learned counsel for the respondent-writ petitioner, would submit that this is the second round of litigation; and the District Collector has failed to comply with the specific order passed by this Court earlier.

The objection of the learned Government Pleader for Revenue (Assignment), to the registration of the subject lands, is on the ground that Para 15(3)(v) of the Andhra Pradesh Board of Revenue Standing Orders (for short "the Board Standing Orders") stipulates that each political sufferer shall be assigned 5 acres of wet land, or its equivalent,

that is 10 acres of dry land; the respondent-writ petitioner's mother was assigned a total of Ac.11.63 cents of wet land, far beyond her entitlement; the competent authority, in terms of G.O.Ms.No.279 dated 04.07.2016, is the District Collector; and the Learned Single Judge had erred in relying on a letter, addressed by the Sub-Collector to the District Collector, requesting him to permit registration of the subject lands.

By the letter addressed by the Sub-Collector, which formed the basis for passing the interim order, the District Collector was requested that, in the light of the instructions issued in G.O.Ms.No.279 dated 04.07.2016 and as there was no dispute that the subject lands were assigned lands, necessary orders may be passed for deletion of the said survey numbers in the list of Government lands under Section 22-A of the Act. He also enclosed the reports received from the Tahsildar, Kurabalakota, along with the relevant enclosures, with his letter.

The copies of the D-Form pattas, filed along with the Writ Appeal, show that two separate pattas were granted - one for an extent of Ac.6.47 cents in Survey No.592/1, and another for an extent of Ac.5.16 cents in Survey No.1806/1. The D-Form pattas record the nature of the land as "punja" which, according to Sri G. Bhaskar, learned counsel for the respondent-writ petitioner, is dry land. Para 15(3) of the Board Standing Orders relates to assignment of land to political sufferers. Under Clause (v)(a) thereof each political sufferer shall be assigned 5 acres of wet land, or its equivalent, that is 10 acres of dry land (15 acres in the Ceded Districts and in the Taluks of Mandapalle and Vayalpad in Chittoor District) irrespective of the extent of the movable or immovable properties owned by him.

In the present case the total extent of land, assigned in favour of the respondent-writ petitioner's mother, is Ac.11.63 cents and, since the subject lands are said to be located in Madanapalli Taluk (Mandal), Sri Gandham Bhaskar, learned counsel for the respondent-writ petitioner

would submit that the assignment granted, in favour of the respondent-writ petitioner's mother, is well within the limits specified in Para 15(3)(v)(a) of the Board Standing Orders.

In terms of G.O.Ms.No.279 dated 04.07.2016 all cases without dispute shall be deleted from the prohibitory list under Section 22-A of the Act as furnished to the Registration Department; and, in respect of cases in which there is a dispute with the Government about the genuineness of the assignment or otherwise, a list of such cases shall be prepared by the District Collector, and furnished to Registration Department by following the procedure under Section 22-A of the Act. The aforesaid G.O makes it clear that, while cases without dispute must necessarily be deleted from the prohibitory list under Section 22-A of the Act, in cases where there is a dispute with the Government, about the genuineness of the assignment or otherwise, a list of such lands is required to be prepared by the District Collector by following the procedure under Section 22-A of the Act and forwarded to the Sub-Registrar.

The proceedings of the Sub-Collector dated 10.01.2017 does indicate that there is no dispute regarding the nature of assignment, and if the submission of Sri Gandham Bhaskar, Learned Counsel for the petitioner, that the subject lands fall within Madanapalli Taluk is true, then there does not appear to be any justification for the District Collector to retain these lands in the prohibitory list under Section 22-A of the Act. Since these are all matters which the District Collector is required to consider, and in as much as the directions issued in the order under appeal to the Sub-Registrar would only be justified if these lands are deleted from the prohibitory list under Section 22-A of the Act, the District Collector could have been directed to take action on the report of the Sub-Collector dated 10.01.2017, instead of directing the Sub-Registrar to register the documents.

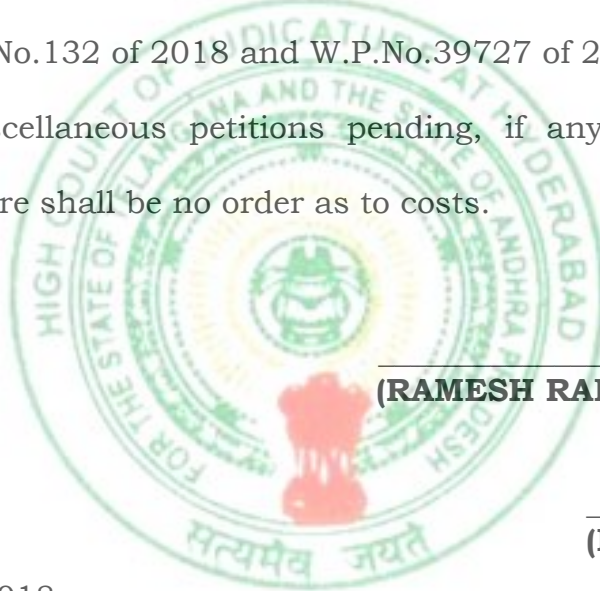
Sri Gandham Bhaskar, learned counsel for the respondent-writ petitioner, would draw our attention to the earlier order dated 14.09.2012 passed by this Court in W.P.No.28704 of 2012, filed by the respondent-writ petitioner, wherein the District Collector, Chittoor was directed to pass orders on the representation made by the respondent-writ petitioner within a period of four weeks from the date of the order, duly taking into account the report submitted by the Revenue Divisional Officer, Madanapalle, Chittoor District. Learned counsel would submit that, in as much as the aforesaid direction was not complied with, the respondent-writ petitioner had perforce to institute proceedings under the Contempt of Courts Act and, in his counter-affidavit in C.C.No.351 of 2013, the District Collector, Chittoor had informed this Court that the request of the respondent-writ petitioner would be considered immediately after instructions from the Government, since Collectors are not the competent authority to issue NOCs in view of the instructions of the Government. Learned counsel would also point out that though G.O.Ms.No.279 dated 04.07.2016 was issued more than a year and half ago, and though the Sub-Collector had submitted his report more than a year ago on 10.01.2017, no orders have been passed by the District Collector, Chittoor till date for deletion of the subject lands from the prohibitory list under Section 22-A of the Act. We find considerable merit in these submissions.

We consider it appropriate therefore, while setting aside the order under appeal, to direct the 2nd appellant herein (District Collector, Chittoor) to take action forthwith on the report of the Sub-Collector dated 10.01.2017 and, if the request for registration is found to be in order, to issue necessary directions for deletion of these lands under Section 22-A of the Act. If, however, the District Collector, Chittoor is satisfied that these lands should not be deleted from the prohibited lands list, under Section 22-A of the Act, he shall pass a reasoned order and communicate his decision to the respondent-writ petitioner. The entire exercise

culminating in either deletion of the subject lands from the list under Section 22-A of the Act, or an order being passed and communicated to the respondent-writ petitioner, shall be completed with utmost expedition and, in any event, not later than one month from today.

Learned Government Pleader for Revenue (Assignment) is present in Court and undertakes to inform the District Collector, Chittoor of his obligations under this order. Both Sri Gandham Bhaskar, 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 this Court, the cause in the writ petition does not survive.

Both W.A.No.132 of 2018 and W.P.No.39727 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 06.02.2018.

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AND
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Date: 02.02.2018

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