

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL NOS.293 AND 294 OF 2018

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard the learned Government Pleader for Revenue (Assignment) and Sri E.V.V.S.Ravi Kumar, learned counsel for the respondent-writ petitioner and, with their consent, both these appeals are disposed of at the stage of admission.

The proceedings of the Joint Sub-Registrar dated 04.09.2017, and the rejection order passed by the District Registrar on 27.10.2017 holding that the appeal, against the order dated 04.09.2017, was not maintainable is questioned in these two Appeals as being arbitrary and illegal.

In the order under appeal dated 15.12.2017, the learned Single Judge observed that an endorsement was issued by the District Registrar dated 27.10.2017 rejecting the appeal preferred by the respondent-writ petitioner, against the order passed by the fourth respondent dated 04.09.2017 refusing to receive the document presented by him, on the ground that the appeal was sent by post; the petitioner had asserted that they had never sent the appeal petition by post; and the learned Government Pleader appearing for the respondent had confirmed the same. The Writ Petition was allowed with costs of Rs.10,000/- to be paid by the District Registrar to the petitioner in each of the Writ Petitions. The endorsement dated 27.10.2017 was set aside, and the District Registrar was directed to pass order afresh in respect of the appeals filed by the petitioner within four weeks, and communicate

its decision to the petitioners. The Principal Secretary (Revenue) was directed to initiate disciplinary proceedings against the District Registrar, for rejecting the appeal petitions on false grounds, within six weeks.

Learned Government Pleader for Revenue would draw our attention to Rule 166(i) and (iii) of the A.P. Registration Rules ("the Rules" for brevity) to submit that it is only if an appeal is presented under Section 72 of the Registration Act, 1908 ("the Act" for brevity) either by the appellant or a certified pleader duly authorised on his behalf by a vakalat, attested in the manner prescribed in the Civil Rules of Practice, can an appeal be entertained; the appeal was sent by messenger; neither the respondent-writ petitioner who preferred the appeal, nor a certified pleader duly authorised by him, had presented the appeal; and there was, therefore, non-compliance of Rule 166(i) of the Rules. Learned Government Pleader would further contend that the appeal was preferred beyond 30 days from the date of service of the order passed by the fourth respondent; and could not, therefore, be entertained.

On the other hand, Sri E.V.V.S.Ravi Kumar, learned counsel for the respondent-writ petitioner, would submit that, as the District Registrar was not available, the appellant had handed over the appeal in his office; the appeal preferred by the appellant was, therefore, in accordance with Rule 166 of the Rules; and the appeal was preferred within time i.e. within 30 days of receipt of a copy of the order.

The Writ Petition was disposed of at the stage of admission without giving the appellants an opportunity of filing their counter

affidavits. While we were initially inclined to set aside the order under appeal, and restore the Writ Petitions to file, both the learned Government Pleader for Revenue (Assignment) and Sri E.V.V.S.Ravi Kumar, learned counsel for the respondent-writ petitioner, would submit that, instead, the District Registrar may be directed to pass orders afresh on all aspects including on the question whether the appeal was preferred belatedly, and whether the appeal as filed is contrary to Rule 166 of the Rules.

In the light of the submission of the learned counsel on either side, we consider it appropriate to set aside the order under appeal and, instead, direct the District Registrar to pass a reasoned order afresh on the maintainability of the appeal preferred by the petitioner. Suffice it to make it clear that we have not expressed any opinion on the rival contentions as to whether or not the appeal was preferred in compliance with Rule 166 of the Rules or whether or not the appeal was filed within time, as these are all matters for the District Registrar to consider, and pass orders thereupon in accordance with law.

Both the Writ Appeals are disposed of directing the District Registrar to pass orders afresh with utmost expedition and, in any event, within four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

26th February 2018
RRB