THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL NO.346 OF 2018

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 WP.MP.No.52930 of 2017 in WP.No.42678 of 2017 dated 27.12.2017.

The unofficial respondents herein filed the said Writ Petition seeking a mandamus to declare the action of the Sub-Registrar, Kavali in not releasing the documents presented by the respondent-writ petitioners for registration, as illegal, arbitrary and in violation of principles of natural justice. A consequential direction was sought to the Sub-Registrar, Kavali and the Sub-Registrar, Darsi to release the pending registered documents presented by the respondent-writ petitioners. By way of interim relief, a direction was sought to the said Sub-Registrars to release the registered documents, presented by the respondent-writ petitioners for registration, pending disposal of the Writ Petition.

Inclusion of the subject lands in the prohibitory order list has not even been subjected to challenge in the Writ Petition. It is only if such inclusion, in the list of prohibited properties, is declared illegal would the Sub-Registrars, thereafter, be entitled to register and release the documents. As long as the subject lands continue to remain in the list of prohibited properties, under Section 22-A of the Registration Act, 1908, the Sub-Registrars are disabled from registering any document relating to the transfer of

the subject property. The relief which could only have been granted, on the subject lands being excluded from the list of prohibited properties and on the main relief in the Writ Petition being granted, has been granted by way of the interim order under appeal.

While the Writ Petition was filed on 13.12.2017, the interim order came to be passed on 27.12.2017, two weeks after the Writ Petition was filed. We are satisfied that the interim order under appeal, which has the effect of allowing the Writ Petition itself, could not have been passed in as much as the appellants herein (respondents in the Writ Petition) were not afforded a reasonable opportunity of being heard. The order under appeal is set aside and WP.MP.No.52930 of 2017 is restored to file. The appellants shall file their counter affidavits within three weeks from today. It is open to Sri K.Srinivas, learned counsel for the respondent-writ petitioner, to request the learned Single Judge to take up WP.MP.No.52930 of 2017 any day after three weeks.

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

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

19th March 2018
RRB