

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.7638 OF 2018

ORDER:

This writ petition is being disposed of by this order as the grievance in this writ petition relates to non-acceptance of the documents for registration by the third respondent/Joint Sub-Registrar in respect of open plot No.567, admeasuring 267 square yards in Sy.No.145, situated at Hydernagar Village, Kukatpally Mandal, Medchal-Malkajgiri District, without assigning any reasons.

The learned Government Pleader submits that the District Collector sent proposals for issuance of Notification under Section 22-A of the Registration Act, and in view of the same, the documents might not have been accepted by the Sub Registrars for registration. But, a Full Bench of this Court in ***Vinjamuri Rajagopala Chary and Others vs. State of A.P.***¹, considered the procedure for issuance of Notification under Section 22-A of the Registration Act and mere proposal of the District Collector was held to be not sufficient for denying registration of documents. The guidelines issued by the Government were considered in paragraphs 100 and 101 of the ALD report. The said guidelines provide for the procedure for preparing lists of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A of the Registration Act and it provides for the procedure to forward such list and to the persons to whom such list has to be forwarded. It was noted that in respect of properties covered by clauses (a) and (b) the District Collectors alone shall furnish lists of immovable

¹ 2016 (2) ALD 236 (FB) = 2016 (1) ALT 550 (FB)

properties prohibited under the statutes. The said list should be forwarded to the Registering Officers. Insofar as list of properties covered by clause (c) are concerned, it was held that the same shall be forwarded by the Commissioner, Endowments insofar as Charitable and Hindu Religious Institutions and Endowments are concerned, and by the Secretary of the Wakf Board in case of properties owned by Wakf to the Registering Officers. In respect of the properties covered by clause (d) are concerned, the Special Officer and Competent Authority under the Urban Land Ceiling Act was held to be competent. Insofar as properties covered by clause (e) of sub-section (1) are concerned, the State Government was held to be competent to exercise such power.

In the instant case, it appears that the properties are covered by clause (e) of sub-section (1) of Section 22-A of the Registration Act and there is no action taken by the State Government for inclusion of the properties under Section 22-A (1) and there is only a proposal of the District Collector. The said issue was considered by Hon'ble Sri Justice P.Naveen Rao, in Order, dated 25.08.2014 passed in W.P.No.19069 of 2014 in relation to the properties situated in Survey Nos.77 to 80 of Hafeezpet village of Balanagar and Serilingampally Mandal, Ranga Reddy District, when a Notification emanating from the District Collector was challenged.

The learned single Judge of this Court held as follows:-

“8. The only issue for consideration in this writ petition is whether the notification issued by the District Collector amounts to prohibition of registration of lands mentioned therein concerning Survey Nos.77 to 80 of Hafeezpet Village is purported exercise of power under Section 22(A)(1)(e) of the Act.

9. Learned Advocate General submits that the notification in question is not issued under the above said provision and that it is erroneously mentioned and that the power is vested to issue a notification only in the State Government under Section 22(A)(2) of the Act. Further the State

Government is entitled to call for the report from the District Collector and the notification issued on 26.09.2013 is for the purpose of compiling the information and submitting a report to the State Government to enable it to issue a notification under Section 22(A)(2) of the Act.

10. In other words, learned Advocate General fairly submits that there is no notification issued as on today under Section 22(A)(2) of the Act. It is further submitted that only after receipt of report from the District Collector and after examining the same by the State Government, appropriate action as warranted by law more particularly under Section 22(A)(2) of the Act would be taken.

11. In view of the submission of learned Advocate General, it is made clear that notification dated 26.09.2013 is not a notification under Section 22(A)(2) of the Act and since, as on today, there is no such notification issued under Section 22(A)(2) of the Act, there is no restraint on the registering authority to receive and process the deeds of conveyance concerning the lands in Survey Nos.79 to 80 of Hafeezpet Village”.

In view of the same, this writ petition is also disposed of directing the Sub-Registrar concerned to receive and process the deeds of conveyance without reference to the District Gazette Notification dated 26.09.2013 but in accordance with the Indian Registration Act, 1908 and the Indian Stamp Act, 1899. However, it is open to the registering authority to refuse to register the deeds presented before him, if he has any other objection, by duly assigning reasons in support of such decision and communicate the decision to the petitioner. It is made clear that mere registration of deed of conveyance does not confer title to the property and it is made clear that this order does not preclude the Government to take appropriate steps as warranted by law and to assert its title.

Miscellaneous petitions, if any, pending shall stand closed.
There shall be no order as to costs.

JUSTICE A.RAMALINGESWARA RAO

Date : 08.03.2018
ssp