

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal Nos.599 and 609 of 2018

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

These two appeals, under Clause 15 of the Letters Patent, are preferred against the order passed by the learned Single Judge in W.P. Nos. 31570 of 2016 and 39198 of 2017 dated 20.12.2017.

The respondent herein filed W.P. No. 31570 of 2016 seeking a mandamus to declare the action of the respondents in not deleting the property situated in Survey No. 524 of B.K. Palli Revenue Village, Madanapalle Mandal, Chittoor District from the prohibitory list of lands communicated by the Tahsildar, Madanapalle to the Sub-Registrar, Madanapalle, purportedly in the exercise of the powers conferred under Section 22-A of the Registration Act, to prohibit the property from being transacted for registration, as illegal, arbitrary and unconstitutional. A consequential direction was sought to the Sub-Registrar, Madanapalle to receive and register the sale deed presented in respect of the property situated in Survey No. 524 of B.K. Palli Revenue Village, Madanapalle Mandal, Chittoor District, admeasuring Acs. 2.05 cents by directing the District Collector, the Revenue Divisional Officer, and the Tahsildar, to delete the said property from the prohibitory list communicated to the Sub-Registrar by treating the said property as free from inhibition of prohibition imposed under the provisions of Act 9 of 1977.

Though W.P.No.31570 of 2016 was admitted, no interim order was passed therein. During the pendency of the Writ Petition, the respondent-writ petitioner filed W.P No. 39198 of 2017 seeking a mandamus to declare the action of the Sub-Registrar, Madanapalle in not receiving and entertaining the deed of conveyance, sought to be executed in respect of the property situated in Survey No. 524 of B.K. Palli Revenue Village, Madanapalle Mandal, Chittoor District as illegal, arbitrary, unconstitutional and *ultra vires* Articles 14, 21 and 300-A of the

Constitution of India; and to, consequently, direct the Sub-Registrar to receive and register the sale deed being presented in respect of the property in Survey No. 524 of B.K. Palli Revenue Village, Madanapalle Mandal, Chittoor District.

The respondent-writ petitioner made no mention of his having filed W.P. No. 31570 of 2016 in the affidavit filed in support of W.P. No. 39198 of 2017, though the relief sought for therein was for the Sub-Registrar to receive the sale deed, and register the same in respect of the very same property. The learned Single Judge heard both the Writ Petitions together, and passed the common order under appeal.

Failure on the part of the respondent-writ petitioner in stating, that he had earlier filed W.P. No. 31570 of 2016, in the affidavit filed in support of W.P. No. 39198 of 2017, is suppression of a material fact, and is evidently an attempt to secure an order which he had failed to secure when he filed W.P. No. 31570 of 2016 earlier. Any litigant, who approaches this Court, must come with clean hands; and suppression of a material fact, in the affidavit filed in support of W.P. No. 39198 of 2017, would require the petitioner to be non-suited at the threshold. On this short ground alone, the order passed in W.P. No. 39198 of 2017 dated 20.12.2017 is liable to be, and is accordingly, set aside.

In so far as W.P. No. 31570 of 2016 is concerned, the proceedings under challenge in the said Writ Petition is the communication, addressed by the Tahsildar to the Sub-Registrar, informing the latter that the subject land was included in the list of lands prohibited from registration. Subsequent thereto, the Government of Andhra Pradesh issued GO Ms. No. 215 dated 13.5.2016 exercising powers under Section 22-A(1)(e) of the Registration Act, 1908 (hereinafter referred to as “the Act”) prohibiting registration of the properties, shown in the Annexure, in the interest of the State Government. The respondent-writ petitioner’s lands are referred to at Sl. No. 9695 of the said notification.

It is only if the notification, issued in GO Ms. No. 215 dated 13.5.2016, is set aside, would the subject land be excluded from the list of

prohibited properties enabling the Sub-Registrar to register the said land. As long as the subject land continues to remain in the list of prohibited properties, Section 22-A(3) would require the Registering Officer to refuse to register the said document for which a notification is issued under Section 22-A(1)(e) of the Act. As GO Ms. No. 215 dated 13.5.2016 is not even under challenge, despite which the relief sought for in the Writ Petition was granted, the order under appeal, in W.P. No. 31570 of 2016 dated 20.12.2017, is also set aside. Needless to state that dismissal of W.P. No. 31570 of 2016 shall not disable the respondent-writ petitioner from questioning the validity of GO Ms. No. 215 dated 13.5.2016 in appropriate legal proceedings.

W.A. No.599 of 2018 is allowed with costs of Rs.5,000/- (Rupees Five Thousand Only). W.A. No. 609 of 2018 is also allowed. However, in the circumstances, without costs. Miscellaneous petitions pending, if any, shall also stand closed.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

27th June, 2018

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