

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 12039 OF 2018

Dated: 11.4.2018

Between:

Cherukuri Rohit Kiran S/o C Ramana Prasad
22 years R/o Poranki village,
Penumaluru mandal, Krishna district

.. Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Revenue (Assn.I)
Department, Secretariat,
Velagapudi, Amaravati, Guntur
District and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No. 12039 OF 2018****ORDER:**

Heard learned counsel for petitioner and learned Government Pleader for Revenue and with their consent the writ petition is disposed of at the stage of admission.

2. Petitioners are aggrieved by the orders issued by the Government in G.O.Ms.No.197, Revenue (Assn.I) Department, dated 05.05.2016, prohibiting the list of properties enclosed to the said G.O. from alienation and directing the registering authority not to entertain registration of deeds of conveyance. The said G.O. is issued in purported exercise of power vested under Section 22-A (1)(e) of the Indian Registration Act, 1908 (for short, 'the Act').

3. Petitioners contend that lands in survey Nos. 547/1, 516, 570 and 574 of Kuragallu village and survey no. 820 of Nowluru village of Mangalagiri mandal, Guntur district were purchased by them and title was validly passed on to them. When they sought to present the document for registration the Sub Registrar refused to register deed of conveyance holding that those properties are included in the prohibited list.

4. The issue of inclusion of properties in the prohibited list, not accepting the documents for registration and the scope of Section 22-A of the Act were elaborately considered by the Full Bench of this Court in ***Vinjamuri Rajagopala Chary v. State of Andhra Pradesh*¹**.

5. In paragraph No.36, Full Bench delineated its findings and directions. It reads as under:

“36. (i) The authorities mentioned in the guidelines, which are obliged to prepare lists of properties covered by clauses (a) to (d), to be sent to the registering authorities under the

¹ 2016 (1) ALT 570 (F.B)

provisions of Registration Act, shall clearly indicate the relevant clause under which each property is classified.

(ii) Insofar as clause (a) is concerned, the concerned District Collectors shall also indicate the statute under which a transaction and its registration is prohibited. Further in respect of the properties covered under clause (b), they shall clearly indicate which of the Governments own the property.

(iii) Insofar as paragraphs (3) and (4) in the Guidelines, covering properties under clause (c) and (d) are concerned, the authorities contemplated therein shall also forward to the registering authorities, along with lists, the extracts of registers/gazette if the property is covered by either endowment or wakf, and declarations/orders made under the provisions of Ceiling Acts if the property is covered under clause (d).

(iv) The authorities forwarding the lists of properties/lands to the registering authority shall also upload the same to the website of both the Governments, namely igrs.ap.gov.in of the State of Andhra Pradesh and registration.telangana.gov.in of the State of Telangana. If there is any change in the website, the State Governments shall indicate the same to all concerned, may be by issuing a press note or an advertisement in prominent daily news papers.

(v) No notification, contemplated by sub-section (2) of Section 22A, is necessary with respect to the properties falling under clauses (a) to (d) of sub-section (1) of Section 22-A.

(vi) The properties covered under clause (e) of Section 22-A shall be notified in the official gazette of the State Governments and shall be forwarded, along with the list of properties, and a copy of the relevant notification/gazette, to the concerned registering authorities under the provisions of Registration Act and shall also place the said notification/gazette on the aforementioned websites of both the State Governments. The Registering authorities shall make available a copy of the Notification/Gazette on an application made by an aggrieved party.

(vii) The registering authorities would be justified in refusing registration of documents in respect of the properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A provided the authorities contemplated under the guidelines, as aforementioned, have communicated the lists of properties prohibited under these clauses.

(viii) The concerned authorities, which are obliged to furnish the lists of properties covered by clauses

(a) to (d) of sub-section (1) of Section 22-A, and the concerned Registering Officers shall follow the guidelines scrupulously.

(ix) It is open to the parties to a document, if the relevant property/land finds place in the list of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, to apply for its deletion from the list or modification thereof, to the concerned authorities as provided for in the guidelines. The concerned authorities are obliged to consider the request in proper perspective and pass appropriate order within six weeks

from the date of receipt of the application and make its copy available to the concerned party.

(x) The redressal mechanism under Section 22-A(4) shall be before the Committees to be constituted by respective State Governments as directed in paragraph-35.1 above. The State Governments shall constitute such committees within eight weeks from the date of pronouncement of this judgment.

(xi) Apart from the redressal mechanism, it is also open to an aggrieved person to approach appropriate forum including Civil Court for either seeking appropriate declaration or deletion of his property/land from the list of prohibited properties or for any other appropriate relief.

(xii) The directions issued by learned single Judges in six judgments referred to above or any other judgments dealing with the provisions of Section 22-A, if are inconsistent with the observations made or directions issued in this judgment, it is made clear that the observations made and directions issued in this judgment shall prevail and would be binding on the parties including the registering authorities under the Registration Act or Government officials or the officials under the Endowments Act, Wakf Act and Ceiling Acts.

(xiii) If the party concerned seeks extracts of the list/register/gazette of properties covered by clauses (a) to (e) of Section 22-A (1), received by the registering officer on the basis of which he refused registration, it shall be furnished within 10 days from the date of an application made by the aggrieved party.

(xiv) Registering officer shall not act and refuse registration of a document in respect of any property furnished to him directly by any authority/officer other than the officers/authorities mentioned in the Guidelines.

(xv) Mere registration of a document shall not confer title on the vendee/alienee, if the property is otherwise covered by clauses (a) to (e), but did not find place in the lists furnished by the concerned authorities to the registering officers. In such cases, the only remedy available to the authorities under clauses (a) to (e) of sub- section (1) of Section 22-A is to approach appropriate forums for appropriate relief.”

6. In this context, it is appropriate to note the directions issued by the Full Bench of this Court in paragraph No.35.1 in **Vinjamuri Rajgopala Chary**. It reads as under:

“35.1 Further, as noticed earlier the State Government is empowered either suo motu or on application to consider the grievances against inclusion of any property in the prohibitory list under Section 22-A of Registration Act and is also empowered to de-notify either in full or in part the notification issued under sub-section (2). In our opinion, the redressal mechanism is available only with respect to notifications

published relating to the properties falling under clause (e) of Section 22-A. Hence, any grievance of the parties with reference to the properties covered by clauses (a) to (d) will have to be questioned by the aggrieved parties only by appropriate proceedings before a competent Court and the adjudication by such Court would be final. Further, so far as notified properties falling under clause (e) are concerned, the redressal mechanism under sub-section (4) of Section 22-A would be able to effectively address the grievance provided the mechanism thereunder is effective, expeditious, fair, and judicious. Thus, in order to make an effective redressal mechanism, we deem it appropriate to direct the respective Governments of both the States to constitute a Committee or establish a Forum within time frame, may be comprising of Principal Secretary of Revenue, Director of Survey and Land Records and a retired Judicial Officer of the rank of a District Judge which shall meet periodically to consider the grievances of the persons affected by the notifications. The Committee shall be empowered to examine relevant records and then pass a reasoned order either accepting or rejecting the grievance by either confirming/deleting/modifying any such property from the notified list of properties. In our view, such orders passed by the Committee shall be binding on the State as well as on the aggrieved person and in the event of any of them being aggrieved thereby, they shall have to approach a competent Court of Law for redressal of their grievance.”

7. In terms of the directions issued by Full Bench in paragraph No.35.1, it is the Committee, which has to take a decision as to whether inclusion of the properties in the prohibited list under Section 22-A (1)(e) of the Act is valid or to uphold the decision of the Government. Decision made by the Committee is binding on the aggrieved persons as well as on the Government and aggrieved persons have to work out their remedies under common law.

8. In terms of the directions issued by the Full Bench of this Court, Committee was constituted vide G.O.Ms.No.300, Revenue (Assn.I)

Department, dated 05.07.2016 to consider the objections against inclusion of properties in prohibited list and to take appropriate decision.

9. Government issued orders in G.O.Ms. No. 394 dated 4.9.2017 amending paragraph 3 of G.O.Ms No. 300 dated 5.7.2016 and paragraph 3-A was inserted. It reads as under:

(3A). "The Committee shall be empowered to examine relevant records and then pass a reasoned order either accepting or rejecting the grievance by either confirming/deleting/modifying any such property from the notified list of properties is final. Such orders passed by the Committee shall be binding on the State as well as on the aggrieved person and in the event of any of them being aggrieved thereby, they shall have to approach a Competent Court of Law for redressal of their grievance."

10. In W.A. Nos. 119 and 149 of 2018 and W P Nos. 42035 and 42027 of 2017 Division Bench of this Court in the judgment dated 5.2.2018 held as under.

"It is evident, from the afore-extracted paragraph in G.O.Ms. No. 394 dated 4.9.2017, that final authority to examine the records is, and the power to pass an order regarding inclusion of a property in the prohibitory list has been conferred on, the Committee."

11. Petitioners have not submitted application(s) to the Committee constituted by Government and instituted this writ petition challenging G.O.Ms No. 197 dated 5.5.2016. In view of the judgment of Full Bench in **Vinjamuri Rajgopala Chary**, petitioners have to submit applications before the Committee in the first instance and request the Committee to consider their objections against inclusion in prohibited list.

12. Thus, writ petition is disposed of granting liberty to petitioners to file applications before the Committee constituted vide G.O.Ms No. 300 dated 5.7.2016. If such application(s) is/are filed the Committee shall consider the issue objectively and shall take a decision by assigning

reasons in support of the decision within six weeks from the date of receipt of application(s) and communicate the same to petitioners. It is needless to observe that decision taken by the Committee shall be informed to the registering authority. Pending miscellaneous petitions shall stand closed.

P. NAVEEN RAO, J

Date:11.4.2018

tvk



THE HON'BLE SRI JUSTICE P. NAVEEN RAO



WRIT PETITION No. 12039 OF 2018

Dated: 11.4.2018