

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL NO.613 OF 2018

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

Heard learned Government Pleader for Revenue (AP) and Sri Suresh Kumar Reddy Kalava, learned counsel for the respondent and, with their consent, the Writ Appeal is disposed of at the stage of admission.

The respondent herein filed WP.No.39274 of 2017 seeking a writ of mandamus to declare the action of the fifth respondent in not receiving, registering and releasing the documents presented by the petitioner, in respect of the property of land admeasuring Acs.2.02 cents in Survey No.53-2B and an extent of Acs.3.40 cents in survey No.53-2C situated at Jarravaripalle Revenue Village, Valmikipuram Mandal, Chittoor District based on the prohibited list furnished by the fifth respondent-Tahsildar, Valmikipuram, as illegal and arbitrary; and to, consequently, direct the fifth respondent to receive and register the documents presented by the petitioner with regards the land admeasuring Acs.2.02 cents in Survey No.53-2B, and an extent of Acs.3.40 cents in Survey No.53-2C, situated at Jarravaripalle Revenue Village, Valmikipuram Mandal, Chittoor District.

The Writ Petition was allowed, by order dated 22.12.2017, holding that the Full Bench judgment in **Vinjamuri Rajagopala Chary and others v. State of Andhra Pradesh rep.by Principal Secretary, Revenue Department, Hyderabad and others**¹ was

¹ 2016 (1) ALT 550 (F.B.)

subjected to challenge in the Supreme Court, and the Supreme Court had permitted all registrations to go on; in **M.Viswanathan v. State of Andhra Pradesh rep.by its Chief Secretary G.A. (Law and Order) Department and others**², it was held that, having regard to a particular fact situation, the land assigned prior to 1954 could also be included in the prohibitory list, but no such peculiar facts in relation to the subject land had been pointed out by the learned Government Pleader for Assignment warranting its inclusion in the prohibitory list; it was not in dispute that prohibition, for alienation of assigned lands, had been introduced for the first time *vide* G.O.Ms.No.1142 Revenue Department dated 18.06.1954; since the original patta, issued to the original assignees, was not produced by the respondents, inspite of a specific direction to that effect on 08.12.2017, an adverse inference had been drawn against the respondents that, if such pattas were produced, they would not support the case of the respondents. Holding that there was no prohibition of alienation of the subject land, and several alienations had taken place, the Writ Petition was allowed with costs; and the District Collector, Chittoor was directed to delete the subject land from the list of properties, prohibited from registration, communicated by him to the Sub-Registrar; and the Sub-Registrar was directed to receive, register and release the document presented for registration.

Before us, the learned Government Pleader for Revenue (A.P) would submit that, *vide* G.O.Ms.No.215 Revenue dated 13.05.2016, the Government had, in the exercise of the powers conferred under Section 22-A of the Registration Act, 1908 (“the

² 2016 (1) ALT 617 (D.B.)

Act” for brevity) prohibited registration of properties, as shown in the annexure, in the interest of the State Government; the annexure to the said G.O. included the subject lands; and, even without a challenge to the validity of the said G.O, the learned Single Judge had set aside the G.O. and had directed the Sub-Registrar to register the properties.

Section 22-A(1) of the Act prohibits the Registrar from receiving and registering the document relating to a property falling within the ambit of clauses (a) to (e) of sub-section (1) of Section 22-A of the Act. While the learned Government Pleader would contend that the subject lands are part of the annexure to G.O.Ms.No.215 dated 13.05.2016, Sri Suresh Kumar Reddy Kalava, learned counsel for the respondent-writ petitioner, would submit that these lists were, in fact, prepared by the Tahsildar, and not by the Government or the District Collector; and, therefore, such a list is null and void.

The question whether the subject lands were included in the list of properties prohibited from registration by the Government or the District Collector, or whether it was the Tahsildar who included the subject lands in the said list, has not been examined in the order under appeal. Further, the relief sought for in the Writ Petition is to declare the action of the Sub-Registrar in not receiving, registering and releasing the document presented by the writ petitioner based on the prohibitory list furnished by the Tahsildar as illegal and arbitrary. Inclusion of the subject lands, in the list of properties prohibited from registration, has not been subjected to challenge in the Writ Petition. The order under appeal, whereby the District Collector was directed to delete the

subject properties from the list of prohibited properties recommended by him to the Sub-Registrar, was passed even though such a relief had not been sought in the Writ Petition.

The order under appeal is, therefore, set aside on this short ground. The Writ Petition is restored to file. The appellants herein shall file their counter-affidavit within three (3) weeks from today. It is open to Sri Suresh Kumar Reddy Kalava, learned counsel for the respondent-writ petitioner, to request the learned Single Judge, to take up the Writ Petition for admission/for hearing, any day after three weeks. It is also made clear that this order shall not preclude the respondent from seeking amendment of the prayer in the Writ Petition to include a challenge to the inclusion of the subject lands in the list of properties prohibited from registration.

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

 (RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

18th April 2018
RRB