

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.695 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 W.P. No. 41824 of 2017 dated 15.12.2017. Respondents 1 to 3 herein filed the Writ Petition to declare the action of the authorities, in including the subject land in the list of prohibited properties, as illegal, arbitrary and unconstitutional; and to consequently direct the appellants to remove the land, in Survey No. 138 of Purushothapatnam Village, Chilakaluripet Mandal, Guntur District, from the list of prohibited properties.

In the order under appeal, the learned Single Judge noted that the respondent-writ petitioners 2 and 3 and the husband of the 1st respondent-writ petitioner were employees of the Chilakaluripet Municipality; certain quarters were constructed for their use; under GO Ms. No. 29 dated 18.3.1998, GO Ms. No.19 dated 12.2.1999 and GO Ms. No. 599 dated 8.10.2009, the Government had permitted the Commissioner to sell the said quarters on hire purchase basis to the writ petitioners; pursuant thereto, sale deeds were executed in their favour by the Commissioner, Chilakaluripet Municipality; however, the District Collector had included the said properties in the prohibited list communicated by him to the Sub-Registrar, Chilakaluripet under Section 22-A of the Registration Act, 1908 (hereinafter referred to as "the Act"); the fact that Government orders were issued, and the Commissioner had sold these properties was not disputed by the

appellants; and, in view of the aforesaid GOs and the sale deeds executed in their favour by the Commissioner, Chilakaluripet Municipality, it was clear that the District Collector had included the subject properties in the list of prohibited properties without application of mind. The Writ Petition was allowed with costs of Rs.3,000/- to be paid by the District Collector to the respondent-writ petitioners, and the District Collector was directed to delete the subject properties from the list of prohibited properties.

It is not in dispute that, pursuant to the orders of the Government in the GOs referred to hereinabove, the Commissioner, Chilakaluripet Municipality had executed sale deeds in favour of the respondent-writ petitioners (petitioners 2 and 3 and the husband of the 1st respondent-writ petitioner) on the basis of the permission accorded to the Commissioner to sell these properties to the respondent-writ petitioners who were hitherto employees of the Municipality; the subject land ceased to remain Government land thereafter; and, consequently, it could not have been included by the District Collector in the list of properties prohibited from registration.

Learned Government Pleader for Revenue (Assignment) would, however, submit that imposition of costs of Rs.3,000/- to be paid to each petitioner by the District Collector was unwarranted in as much as the action taken by him, to include these properties in the list of prohibited properties under Section 22-A of the Act, was based on the information placed before him by his subordinates. As inclusion of these properties, in the list of properties prohibited from registration, is illegal, we find no error in the order of the Learned Single Judge allowing the Writ Petition with costs of Rs.3,000/- payable to each petitioner. As it was the District Collector, who had issued the proceedings including these properties, in the list of properties

prohibited from registration, the learned Single Judge cannot be faulted for having imposed costs on the District Collector. If, as is now contended before us by the learned Government Pleader for Revenue, inclusion of these properties in the list of prohibited properties by the District Collector was on the basis of erroneous information placed before him by his subordinates, this order shall not disable the District Collector from identifying the person responsible for such a lapse; and in recovering the costs, to be paid by him to the respondent-writ petitioners, from the said Officer/employee.

Subject to the above observations, the Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

4th June, 2018

pnb



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI



Writ Appeal No.695 of 2018

Date: 4.6.2018

pnb