

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.694 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.38646 of 2017 dated 28.12.2017. The respondents herein filed the Writ Petition seeking a mandamus to declare the action of the appellants in including their lands, in the list of prohibited properties, as illegal, arbitrary, contrary to the provisions of the Registration Act, and in violation of Article 300-A of the Constitution of India. A consequential direction is sought to delete the subject lands from the list of prohibited properties.

In the order under appeal, the learned Single Judge noted the submissions urged on behalf of the respondent-writ petitioners and the appellants herein and thereafter observed that, despite a direction to the learned Government Pleader for Assignment to produce the deed of assignment as it was contended that the subject lands are assigned lands, no deed of assignment was produced; in the prohibitory list, communicated by the Collector to the registration authority, the subject lands were shown as assigned lands; and, in the absence of production of the deed of assignment, it had to be held that categorisation of the said land as assigned land was not *bona fide*.

Thereafter, the learned Single Judge examined the petitioner's claim on its merits, and recorded a finding that the subject land was not Government land. These findings recorded by the learned Single Judge, in the order under appeal, is now under challenge before us.

It is wholly unnecessary for us to consider the submission of the Learned Government Pleader on the merits of the petitioner's claim as the letter addressed by the District Collector to the Sub-Registrar, informing him that the subject lands should be included in the list of properties prohibited from registration, is on the premise that these lands were assigned lands. Learned Government Pleader for Revenue (Assignments) would draw our attention to the counter-affidavit filed by the District Collector wherein it is stated that the records relating to assignment were not available. As it is the Collector's stand, in the counter-affidavit filed by him, that these lands are Government lands, and not that they are assigned lands, the letter addressed by him to the Sub-Registrar, informing the latter that these lands were included in the list of properties prohibited from registration, because they were assigned lands, is evidently erroneous. On this short ground alone, the subject lands are required to be deleted from the list of properties prohibited from registration. It was wholly unnecessary for the learned Single Judge, therefore, to have examined whether or not these lands were Government lands.

The order under appeal is modified accordingly, and the subject lands shall stand deleted, from the list of properties prohibited from registration, on the short ground that the very premise on which these lands were included in the list of properties prohibited from registration, i.e they were assigned lands, is now admitted, in the counter-affidavit, to be erroneous. Suffice it to make it clear that this order shall not disable the District Collector from issuing proceedings afresh, in the exercise of his powers under Section 22-A of the Registration Act, 1908 (hereinafter referred to as the "Act"), if he is satisfied that the subject lands are Government lands. Needless to state that, if any such action

is taken by the District Collector in this regard, it is always open to the respondent-writ petitioners to avail their judicial remedies thereagainst.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand disposed of. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

4th June, 2018

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