

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Appeal Nos.119 and 149 of 2018

&

Writ Petition Nos.42035 and 42027 of 2017

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

Both these Writ Appeals, under Clause 15 of the Letters Patent, are preferred against the orders passed by the Learned Single Judge in W.P.M.P.No.52138 of 2017 in W.P.No.42035 of 2017 and W.P.M.P.No.52130 of 2017 in W.P.No.42027 of 2017 respectively dated 18.12.2017. W.P.Nos.42035 and 42027 of 2017 were filed by the 1st respondent, in each of these Writ Appeals, seeking a mandamus to declare the action of the State Level Grievance Redressal Committee (for short "the Committee"), in refusing to delete their respective lands situated in Nowluru and Kuragallu Villages, Mangalagiri Mandal, Guntur District from the Annexure to G.O.Ms.No.197 dated 05.05.2016, by passing an order dated 26.10.2017, as arbitrary, illegal and in violation of Articles 14, 21 and 300-A of the Constitution of India. By way of interim relief, the 1st respondent-writ petitioners sought suspension of operation of the order dated 26.10.2017 passed by the Committee, and for a direction to the Sub-Registrar, Mangalagiri to register and release the documents relating to their respective lands.

The Learned Single Judge passed an interim order suspending the proceedings of the Committee dated 26.10.2017, and directed the said Committee to instruct the Sub-Registrar to forthwith register the documents presented by the respective Writ Petitioners strictly in accordance with the provisions of the Registration Act, 1908 (for short "the Act") and the Indian Stamp Act, 1899.

The fact that the subject lands were assigned in favour of the 1st respondent-writ petitioners, long before the year 1954, is not in dispute. The 1st respondent-writ petitioners' claim that these lands were the subject matter of sale ever since 1922, and have furnished details of the documents through which these lands were alienated. The Committee was constituted, pursuant to the judgment of a Full Bench of this Court in **Vinjamuri Rajagopala Chary vs. State of Andhra Pradesh**¹, to examine all claims regarding inclusion of the subject lands in the prohibitory list under Section 22-A of the Act.

The Subject lands were included, in the list of prohibited properties under Section 22-A(1)(e) of the Act, on the ground that they are assigned lands which are prohibited from alienation. The 1st respondent-writ petitioners submitted their respective representations to the Committee on 14.07.2016 seeking exclusion of these lands from the prohibitory list under Section 22-A(1)(e) of the Act. On a report being called for, the District Collector submitted his report dated 18.04.2017. The Committee, in turn, sent its report to the State Government on 02.06.2017.

The State Government issued G.O.Ms.No.394 dated 04.09.2017 referring to the judgment of the Full Bench of this Court in **Vinjamuri Rajagopala Chary**¹. Paragraph 3 of the earlier orders issued in G.O.Ms.No.300 dated 05.07.2016, whereby the Committee was constituted, was amended and Paragraph 3A was inserted which reads thus:-

(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."

¹ 2016(1) ALT 550 (F.B)

It is evident, from the afore-extracted paragraph in G.O.Ms.No.394 dated 04.09.2017, that the 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. In its respective order dated 26.10.2017, the Committee opined that this Court had, in its order in W.P.No.17865 of 2010, observed that, for the first time, the State Government by its G.O.Ms.No.1142 dated 18.06.1954, in respect of Andhra Area, had introduced the condition of non-alienability of assigned lands; and, in cases where the assignment was prior to 1954 and in the absence of any record to show that the assignment contained the condition of non-alienability, it was not permissible for the respondents to presume the existence of such a condition and refuse registration of land; the Government had itself, in respect of certain lands in the CRDA area of Guntur District, issued G.O.Ms.No.41 dated 17.02.2016 treating the lands, which were assigned prior to 1954, on par with patta lands to extend to them the benefit of allotment of plots under the Land Pooling Scheme; apart from it, the Chief Commissioner of Land Administration (CCLA) had, by letters dated 01.05.2015 and 20.10.2016, already requested the Government to take a policy decision to treat all lands, assigned prior to 1954, as patta lands to settle a number of cases which were pending in Revenue and Civil Courts; and, as orders were still awaited from the Government and, as at present, there was no authority to treat the assigned lands, which were assigned prior to 1954, as patta lands the petitioners' plea was rejected.

It does appear, from the order dated 26.10.2017, that the Committee has shifted its responsibility to examine the question whether lands in Andhra Area, which were assigned before 1954, are prohibited from alienation on to the Government. Learned Government

Pleader for Revenue (Assignment) would fairly state that the impugned order may not accord with law, as it is for the Committee to examine and adjudicate each such claim of lands having been illegally included in the list of prohibited properties.

Sri P.Roy Reddy, learned counsel for the petitioner in W.P.No.42035 of 2017, would submit that, while in a few parts of the erstwhile Madras State which did not form part of the State of Andhra later, assigned lands contained a non-alienation clause, assignment of lands in the Andhra Area, which later constituted the State of Andhra Pradesh, did not provide for any such condition of non-alienation in the assignment pattas granted to individuals; the very fact that the subject lands have been subjected to alienation ever since 1922 would itself show that the subject assignment pattas did not contain a non-alienation clause; and though these lands have been subjected to alienation atleast thrice, inclusion of these lands in the list of prohibited lands, in exercise of powers under Section 22-A(1)(e) of the Act, is illegal.

A Full Bench of this Court in **Vinjamuri Rajagopala Chary¹**, entrusted the Committee with the responsibility to adjudicate claims for illegal inclusion of lands in the list of prohibited properties. Though the 1st respondent-writ petitioners have made such a claim as early as on 14.07.2016, a year and half ago, they have been made to run from pillar to post seeking resolution of this issue. From the orders impugned in the writ petitions, and the other records enclosed therewith, it does appear that not only was voluminous material placed before the Committee, but the 1st respondent-writ petitioners had also submitted their written arguments. Since the material has already been placed before the Committee, and as G.O.Ms.No.394 dated 04.09.2017, amending G.O.Ms.No.300 dated 05.07.2016, requires the Committee to

examine the records and pass a reasoned order, either accepting or rejecting the grievance, of any individual claiming that inclusion of his lands in the list of prohibited properties is illegal, the respective orders dated 26.10.2017 passed by the Committee, which are impugned in these two Writ Petitions, are evidently illegal. They are liable to be, and are accordingly, set aside. The Committee shall, with utmost expedition and in any event not later than six weeks from the date of receipt of a copy of this order, consider the matter afresh, and pass reasoned orders on the 1st respondent-writ petitioners' claim that the subject lands, which were assigned before the first alienation in 1922, could not have contained a non-alienation clause, since such a requirement was introduced for the first time, in the State of Andhra, in the year 1954.

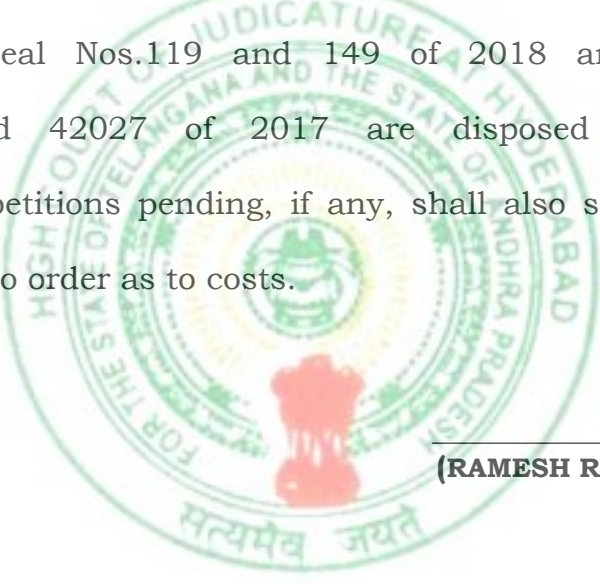
While the learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellants, would submit that the relevant Board Standing Orders, which provide for a non-alienation clause in the assignment made as early as in 1932, were not brought to the notice of this Court when the earlier orders were passed, Sri P.Roy Reddy, learned counsel for the writ petitioner in W.P.No.42035 of 2017, would contend that Clause 15(37) of the Board Standing Orders, as they stood in 1931 and on which reliance is placed by the learned Government Pleader, relates to conditional assignment for hill tribes in Ganjam, North Arcot and Salem Districts of the erstwhile State of Madras; while Ganjam District is now in the State of Orissa, Salem District is in the State of Tamilnadu; and the Taluks specified, in the Board Standing Orders, as being located in North Arcot District, are all located in the present State of Tamilnadu.

It is wholly unnecessary for us to examine these rival contentions, since these are all matters which the Committee is required to consider. Suffice it, therefore, to dispose of both the Writ Appeals directing the

Committee to pass orders on the representations of the 1st respondent-writ petitioner, in the respective Writ Petitions, within six weeks from the date of receipt of a copy of this order, after giving the 1st respondent-writ petitioners an opportunity of being heard.

Learned Government Pleader for Revenue (Assignment), appearing on behalf of the appellants, Sri P.Roy Reddy, learned counsel for the 1st respondent-writ petitioner in W.P.No.42035 of 2017, and Sri V.Suryakiran Kumar, learned counsel for the 1st respondent-writ petitioner in W.P.No.42027 of 2017, would agree that, in view of the order now passed by us, the cause in the respective Writ Petitions do not survive, and the Writ Petitions also be disposed of.

Writ Appeal Nos.119 and 149 of 2018 and Writ Petition Nos.42035 and 42027 of 2017 are disposed of accordingly. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

05th February, 2018
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Date: 05.02.2018