

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.43552 of 2017

ORDER:

This Writ Petition is filed seeking the following relief:

“to issue a writ of mandamus or any other appropriate writ order or direction declaring the action of the 5th respondent in not receiving and processing the documents presented in respect of petitioners land in Sy. No. 94-A1 to an extent of Ac 1-00 cent situated at Peddapadu Village Kallur Mandal, Kurnool District for registration and raising an objection that the land belongs to Government/WAKF property is illegal and arbitrary and consequently direct the 5th respondent to receive the documents presented by the petitioner in respect of the above land for registration and release the same without raising any objection and without reference under section 22-A (c) of the A P Stamps and Registration Act.”

2. The petitioner is the absolute owner and possessor of abovementioned land having acquired the same by virtue of Gift Settlement Deed, dated 23.07.2017, which was executed by his mother. Since then, he is in continuous possession and enjoyment of the same and the fourth respondent also issued pattadar passbooks and title deeds in his favour. While so, the petitioner intends to sell the said property and accordingly, approached the fifth respondent for registration of the document, but, the fifth respondent refused to register the document on the ground that the subject property belongs to Government/Wakf Board. The petitioner submitted all the documents from the year 1982, but the fifth respondent refused to receive the same stating that unless and until the revenue authorities clarify that the subject land does not belong to Government/Wakf, he will not process the document for registration. It is further stated that one of the neighbouring land owners submitted a representation to the third respondent explaining each and every issue with regard

to the subject land and requested him to issue No Objection Certificate and remove the same from the prohibited list. Having received the said representation, no orders have been passed till today. Hence, the present Writ Petition is filed.

3. This Court in **Vinjamuri Rajagopala Chary v. State of A.P**¹ considered the said issue and held as follows:

“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.”

4. In respect of properties covered by Section 22 (1)(c) of the Registration Act, the competent authority is the Commissioner of Endowments in respect of endowment properties and the Wakf Board in respect of Wakf properties. In the present Writ Petition, the said authorities are not made as parties. The petitioner is directed to

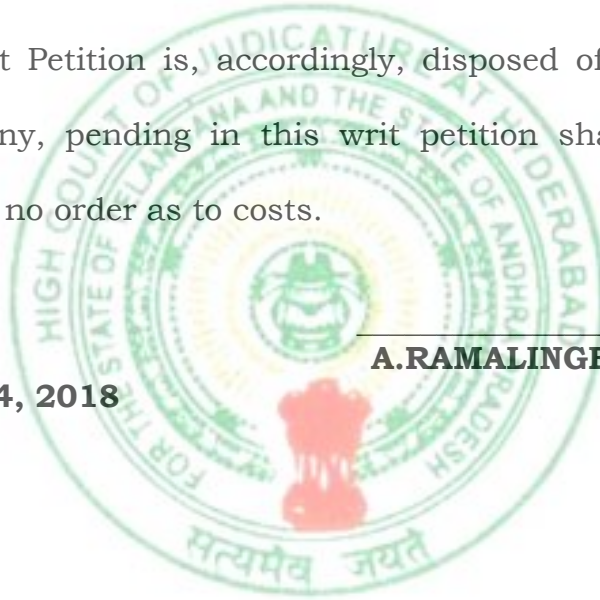
¹ 2016 (1) ALT 550 (FB) : 2016 (2) ALD 236 (FB)

obtain information relating to inclusion of the property claimed by the petitioner in the prohibited list of properties and if it is included under Section 22 (1) (c) of the Act, he shall make an appropriate application to the above authorities. If the property is not included in the list of prohibited properties, he can submit the document for registration and the Sub-Register shall accept the same and process it for further action as per the provisions of the Registration Act. If for any reason, the document cannot be registered, the Sub-Registrar shall pass an endorsement indicating reasons for refusing for registration.

5. The Writ Petition is, accordingly, disposed of. Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

FEBRUARY 14, 2018
YVL

A.RAMALINGESWARA RAO, J



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Date: 14.02.2018

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