

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.31818 of 2015

ORDER:

The prayer of the petitioners in this case is as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the inaction declaring the notification File No.E5/4730/2013/Quthubullapur/Bowrampet dated 25092013 U/sec 22-A(1)(a) of Registration Act, 1908, in respect of R.S.No.365 an extent of Acs.18.26 gts of Bowrampet Village, Quthubullapur Mandal, issued by the Respondents as illegal, arbitrary, ultra vires and violative of Articles 14 and 300A of Constitution of India and declaring Memo Nos.27648/Regn.I/A1/2009-3 dated 22.03.2010 and No.27648/Regn-I/A1/2009-19 dated 13.01.2012 issued by the 1st Respondent as null and void and consequently, direct the Respondents herein to set aside the impugned notification in respect of R.S.No.365 an extent of Acs.16.07 gts out of Acs.18.26 gts Bowrampet village Quthubullapur Mandal from impugned notification in view of the objections stated herein thereby treating the said subject land as not prohibited from registration and award costs and to pass such other order or orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case.”

Notification dated 26.09.2013, which was similar to the impugned Notification dated 25.09.2013, was considered earlier by the erstwhile common High Court for the States of Telangana and Andhra Pradesh in Writ Petition No.19069 of 2014 and the Court directed entertainment of the document for registration in that case without reference to the said Notification. Similar were the observations of the erstwhile common High Court for the States of Telangana and Andhra Pradesh in Writ Petition No.38491 of 2018.

Perusal of the Notification dated 25.09.2013 would demonstrate that the Collector, Medchal-Malkajgiri District, purported to issue the said Notification notifying lands under Section 22-A(1)(a) of the Registration Act, 1908 (*for brevity*, 'the Act of 1908') and invited objections and suggestions from the affected people.

Section 22-A(1)(a) of the Act of 1908 prohibits registration of documents relating to transfer of immovable property, alienation or transfer of which is prohibited under any statute of the State or the Central Government. Significantly, no procedure is prescribed to the effect that a prohibitory list in relation to the lands which would be covered by Section-22-A(1)(a) of the Act of 1908 should be prepared after calling for objections. The procedure underlying the Notification dated 25.09.2013 was therefore not sourced in any law and the orders aforestated directing the registration authorities to ignore the same cannot be said to be without basis.

In that view of the matter, the Writ Petition is allowed declaring that the impugned Notification dated 25.09.2013 does not satisfy the requirements of Section 22-A(1)(a) of the Act of 1908 and cannot be treated as a valid notification issued under the said provision. The Registration authorities cannot deny registration to any document, on the strength of the said Notification dated 25.09.2013, on the ground that the property covered by the said document finds mention therein. Needless to state, mere registration of a document would not confer title, if it is otherwise wanting, and it would always be open to any aggrieved party to take appropriate measures in accordance with law

against the executants of the document, including the cancellation of the registered document.

Pending miscellaneous petitions, if any, in this writ petition shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

11th March, 2019
Dr

