

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.47960 OF 2018

ORDER:

The Sub-Registrar, Stamps and Registration, Rajendranagar Mandal, Ranga Reddy District refused to entertain the 'Irrevocable General Power of Attorney' presented by the petitioner in relation to the land bearing Municipal No.4-7-47/3/b, admeasuring 305 sq. yards, situated in Sy.Nos.108 and 109 of Attapur Village, Rajendranagar Mandal and Municipality, Ranga Reddy District, on the ground that the same found mention in the prohibitory list prepared under Section 22-A(1)(c) of the Registration Act, 1908 (for brevity, 'the Act of 1908'), indicating that it is an endowment land. This was the cause for filing of this writ petition.

Perusal of the Memo dated 28.9.2008 addressed by the Public Information Officer/Sub-Registrar, Sub-Registrar's Office, Rajendranagar, demonstrates that as per the office records of the Sub-Registrar, Sy.Nos.108 and 109 of Attapur Village, Rajendranagar Mandal, Ranga Reddy District, are 'Prohibited Properties' as the lands in these survey numbers belong to the Endowments Department as per the list furnished by the Assistant Commissioner, Endowments, Ranga Reddy District.

It appears that Annexure-III was prepared by the Assistant Commissioner of the Endowments Department, purportedly under Section 22-A(1)(c) of the Act of 1908, indicating the immoveable properties over which Religious or Charitable Institutions in Rajendranagar Revenue Mandal claimed title.

Section 22-A(1)(c) of the Act of 1908 prohibits registration of documents relating to transfer of immoveable property owned by Religious and Charitable Institutions falling under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and

Endowments Act, 1987 executed by persons other than those statutorily empowered to do so. On the other hand, Section 22-A(1)(e) of the Act of 1908 prohibits registration of documents pertaining to properties in which Religious and Charitable Institutions claim avowed or accrued interests. It is clear from a bare reading of the aforesaid two clauses of the statutory provision that they would operate in different and distinct circumstances. Clause (c) of Section 22-A(1) would apply only in cases relating to the executant of the document being one other than the person statutorily empowered to execute such document for transfer of property owned by that Religious Institution. In such a case, there would be no dispute as to the title of the Religious Institution over the property sought to be transferred. However, clause (e) of Section 22-A(1) of the Act of 1908 would have application in a case where the Religious Institution claims avowed or accrued interests in the land covered by the document presented and registration of the same would adversely affect such interests. In a case of this nature, the title of the Religious Institution would not stand on par with the confirmed title as in a case under clause (c). It is for this reason that Section 22-A(2) of the Act of 1908 requires the State Government to publish a notification giving the full description of the properties falling under Section 22-A(1)(e) of the Act of 1908.

In the case on hand, there is no indication of how the Assistant Commissioner of Endowments treats the so called list prepared by him as one falling under Section 22-A(1)(c) of the Act of 1908. Significant to note, if it was a list falling under Section 22-A(1)(c) of the Act of 1908, what would require to be notified thereunder would be the names of the persons who would be statutorily empowered to execute document(s) on behalf of the various Religious Institutions and not a list of properties.

Therefore, once the list in question details the properties in which Religious Institutions in the entire mandal claim title, without even indicating as to whether there is any dispute in relation thereto, such a list can only be treated as one relatable to Section 22-A(1)(e) of the Act of 1908. If that be so, there must necessarily be a Government notification under section 22-A(2) of the Act of 1908. In the absence of such a notification, it is not open to the registration authorities to fall back upon the so called prohibitory list of the Endowments Department purporting to be one under Section 22-A(1)(c) of the Act of 1908.

On the above analysis, the Writ Petition is disposed of directing the third respondent to receive and process the document presented by the petitioner without reference to the so called prohibitory list mentioned in the Memo dated 28.9.2018 addressed by the Sub-Registrar's Office, Rajendranagar Mandal, Ranga Reddy District. In the event the document is found to be otherwise fit for registration, the third respondent shall complete the registration formalities in accordance with the due procedure and release the document. However, if the third respondent finds grounds to exercise power under Section 76 of the Act of 1908 and refuse registration, he shall pass a reasoned order and communicate the same to the petitioner. This exercise, one way or the other, shall be concluded expeditiously and in any event, not later than one month from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

Dt: 03.01.2019
Kvsn

SANJAY KUMAR, J.