

**THE HON'BLE SRI JUSTICE M. GANGA RAO**

**WRIT PETITION No. 20552 OF 2020**

**ORDER:-**

The petitioner Mr. Kalidindi Lakshmana Murthy Raju S/o K. Golla Raju filed this Writ Petition to issue a Writ of Mandamus declaring the inclusion of the land to an extent of Ac. 5.00 cents situated in Sy.No.71/10 of Paradesipalem Village, Visakhapatnam Rural Mandal, Visakhapatnam District in the prohibited property list maintained under Section 22-A of the Registration Act, vide notification issued in Rc.No.3795/2007/E1, dated 19.09.2017 issued by the 3<sup>rd</sup> respondent in Annexure-I of Section 22-A(1)(a) of the Registration Act of the list showing it as Government land contrary to the orders passed by the Hon'ble Supreme Court in Civil Appeal No.3673 of 2009, dated 27.11.2014 reported in 2014(15) SCC 591 is illegal and arbitrary and consequently to set aside the notification dated 19.09.2017.

2. Heard learned counsel for petitioner and learned Assistant Government Pleader for Registration and Stamps for Respondents.

3. The case of the petitioner is that his mother namely Smt. K. Varalakshmi along with others jointly purchased the land to an extent of Ac. 5.00 cents situated in Sy.No. 71/10 of Paradesipalem Village, through a registered document No. 669 of 1982, dated 27.01.1982. The vendors purchased the land under registered Sale Deed vide document No. 109 of 1970, dated 12.01.1970 for valid sale consideration from one Sagiraju Bangaramma. Since then, the petitioner is in possession and enjoyment of the same. When the respondents 3 to 5 and Visakhapatnam Urban Development Authority were interfering with the possession of the petitioner, a suit was filed in O.S.No. 11 of 1995 on the file of II Additional District Judge for declaration of title and permanent injunction in

respect of the land and the said suit was dismissed on 28.08.1996. As against the said suit, the petitioner has filed Appeal in A.S.No. 2784 of 1996 before the erstwhile High Court of A.P and the same was allowed on 16.03.2004. The respondents 3 to 5 have preferred a Civil Appeal No. 3673 of 2009 before the Hon'ble Supreme Court of India, against the decree and Judgment in A.S.No.2784 of 1996. The Hon'ble Supreme Court of India dismissed the Civil Appeal on 27.11.2014. The petitioner was issued with Pattadar Pass Book and Title Deed by assigning Patta No. 359 in respect of the land to an extent of Ac. 5.00 cents situated in Sy.No. 71/10 of Paradesipalem Village as per the orders of this Court passed in W.P.No. 19085 of 2011, dated 06.02.2012 and Contempt Case No. 272 of 2012 and pending civil appeal before the Hon'ble Supreme Court of India. In spite of orders of this Court passed in W.P.No. 10914 of 2013, dated 01.10.2013 the respondents have not issued proper market value certificate, in respect of the land and not entertaining the document for registration on the ground that the land is included in the prohibited property list as per proceedings in Rc.No.3795/E1, dated 19.09.2017 issued by the 3<sup>rd</sup> respondent. Being aggrieved by the inclusion of the land in the prohibited property list and in not entertaining the document for registration, the present Writ Petition is filed.

4. Learned counsel for petitioner would contend that the land to an extent of Ac. 5.00 cents is situated in Sy.No. 71/10 of Paradesipalem Village is a private patta land, as declared by the erstwhile High Court of A.P in A.S.No.2784 of 1996 dated 16.03.2004 as confirmed by the Hon'ble Supreme Court of India in Civil Appeal No. 3673 of 2009 dated 27.11.2014. The respondent authorities having given Pattadar Pass Book and Title Deed bearing Patta No. 359 in respect of the land as per the orders of the

erstwhile High Court of A.P passed in W.P.No. 19085 of 2011, dated 06.02.2012 and Contempt Case No. 272 of 2012 and continuing the land as a Government Land included in the prohibited property list maintained under Section 22-A of the Registration Act, 1908 and not entertaining the document for registration, inspite of orders passed in W.P.No. 10914 of 2013, dated 01.10.2013 is illegal, arbitrary and violative of Article 14 and 300-A of the Constitution of India.

5. *Per Contra*, learned Assistant Government Pleader for Registration and Stamps appearing for respondents while reiterating the contents of the counter submits that the land is included in the prohibited property list maintained under Section 22-A of the Registration Act, as per proceedings in Rc.No.3795/E1, dated 19.09.2017 issued by the 3<sup>rd</sup> respondent is binding on the Registration Authorities. As long as the land is shown in the prohibited property list maintained under Section 22-A(1)(a) of the Registration Act, 1908, no document could be entertained for registration. He further contend that the land is included in the prohibited property list by way of Gazettee Publication vide District Gazettee No. 76 to 79 dated 13.08.2014. Hence, the Government alone is competent to delete the lands from the prohibited property list. The Registration Authorities could entertain the document in respect of the land only after deletion of the lands from the prohibited property list by the Government through notification.

6. As could be seen from the record, which shows that the land to an extent of Ac. 5.00 cents situated in Sy.No. 71/10 was sold by Smt. Durga Venkata Ratnam W/o Late Durga Ramalingeshwara Rao and others in favour of Smt. Varalakshmi W/o Kalidindi Gopalraju through a Registered Sale Deed dated 27.01.1982 for

valid sale consideration of Rs. 20,000/-, but the Pattadar Pass Book and Title Deed bearing Patta No. 359 in respect of the land to an extent of Ac. 5.00 cents in Sy.No. 71/10 of Paradesipalem was issued only in the name of the petitioner. As per the orders passed by the erstwhile High Court of A.P in W.P.No. 19085 of 2011, dated 06.02.2012 and Contempt Case No. 272 of 2012 and the petitioner's title for the land was declared in A.S.No.2784 of 1996 dated 16.03.2004 filed against the Judgment and Decree in O.S.No.11 of 1995 dated 28.08.1996 on the file of II Additional District Judge and the same was confirmed by the Hon'ble Supreme Court of India in Civil Appeal No. 3673 of 2009, dated 27.11.2014.

7. However, the petitioner's land to an extent of Ac. 5.00 cents situated in Sy.No. 71/10 of Paradesipalem is included in the prohibited property list maintained under Section 22-A(1)(a) of the Registration Act, by way of Gazettee Notification. Hence, the action of the Respondent authorities in not entertaining the document for registration in respect of the land could not be said to be illegal and arbitrary.

8. Having regard to the facts and circumstances of the case and considering the submissions of the learned counsel and perused the record, this Court, in the interest of justice, felt it appropriate to dispose of the Writ Petition, giving liberty to the petitioner to approach the 3<sup>rd</sup> respondent/ District Collector, Visakhapatnam District by way of comprehensive representation along with documents for deletion of the land from the prohibited property list maintained under Section 22-A of the Registration Act, 1908 within two (02) weeks from the date of receipt of a copy of this order. On such representation, the 3<sup>rd</sup> respondent is directed to

consider the same as per law as expeditiously as possible, preferably within a period of four (04) weeks thereafter and communicate the same to the petitioner and respondents 6 and 7. On receipt of such order from the 3<sup>rd</sup> respondent, the respondents 6 and 7 are directed to receive the proposed document submitted by the petitioner, register it and release the same as per the provisions of the Registration Act, 1908 and rules made thereunder.

Accordingly, the writ petition is disposed of. No order as to Costs. As a sequel, miscellaneous applications pending, if any, shall also stand closed.

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**JUSTICE M. GANGA RAO**

Date:23.02.2021

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