

*** THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**

+ WRIT PETITION No.3704 of 2024

% Dated 02-04-2024

Between:

Battalwar Ramudu
S/o. Late Battalwar Teja Rao,
Aged about 26 years, Occ : Business,
R/o. H.No.106/B-2, Tekriyal, Kamareddy Town and District.

... Petitioner

and

\$ The State of Telangana
Represented by its Principal Secretary,
Home Department,
Secretariat, Hyderabad and others.

....Respondents

! Counsel for the Petitioner : Mr. M.Avinash Reddy Mohan
Rao

^ Counsel for the respondents : G.P. for Home and Revenue

< GIST : ---

>HEAD NOTE : ---

? Cases referred: :

1. W.P. No.28300 of 2007

THE HONOURABLE SRI JUSTICE N.V.SHRAVAN KUMAR**WRIT PETITION No.3704 of 2024****ORDER:**

Heard the learned counsel for the petitioner, the learned Assistant Government Pleader for Stamps and Registration appearing for the respondents No.1 and 3 and the learned Assistant Government Pleader for Home appearing for the respondents No.2, 4 and 5. With their consent, this writ petition is disposed of at the threshold.

2. This writ petition has been filed seeking a writ of mandamus declaring the action of the 3rd respondent in issuing proceedings dated 15.03.2021 basing upon which the 5th respondent vide order dated 25.01.2024 refused to register the Sale deed presented by the petitioner with respect to property bearing Flat No.202 in Second Floor of Murugan Enclave on Plot No.676 in Sy.Nos.100, 101 & 105 situated at Quthbullapur village and Mandal, Medchal – Malkajgiri District (hereinafter will be referred to as ‘the subject property’) on the ground that the criminal case is pending against the petitioners vendor upon the instructions of the 3rd respondent as illegal and arbitrary and consequently to set aside the same and direct the respondents to receive, register and release the document presented by the petitioner with respect to the subject property.

3. It is the case of the petitioner that his vendor one Shaik Ismail is the absolute owner and possessor of the subject property. On account of family necessity of the vendor of the petitioner had

offered to sell the subject property to the petitioner. In pursuance of the same, the petitioner and his vendor mutually agreed for execution of sale deed and presented the same before the 5th respondent, Sub-Registrar, for registration on 24.01.2024 after paying the necessary stamp duty and requisite registration fee. Thereafter, the 5th respondent, Sub-Registrar, kept the document pending for scrutiny vide Pending Document No.P.12/2024 and after scrutiny, the said document was refused for registration erroneously vide Intimation of Refusal No.6/2024 dated 25.01.2024 on the ground that the 3rd respondent, Station House Officer, Kamareddy Police Station, issued a letter dated 15.03.2021 that a case is registered against the petitioner's vendor at Kamareddy P.S., and hence, directed the 5th respondent, Sub-Registrar, to stop all transactions on the subject property. Hence, the petitioner filed the present writ petition.

4. On behalf of the 3rd respondent, Station House Officer, counter affidavit has been filed, *inter alia*, stating that a complaint dated 16.06.2020 has been received by one Sunkar Aishwarya against the vendor of the petitioner in respect of money circulation business based on which, a case has been registered as FIR No.236/2020 under Sections 420, 506 of IPC; Section 5 TSPDFEA, Section 3, 4, 5 of PC & MCSB Act against the vendor of the petitioner and others and investigation has been taken up. It is further submitted that during the investigation, it is revealed that accused persons have been running money circulation business in the name of KEY NEXT INDIA

REAL ESTATE FOODS & ADS BEERSHEEBA FOODS OFFICE and offered to innocent people and in turn cheated thousands of innocent people through depositing their money and they are not returning their money, accordingly executed a sale deed in favour of the petitioner. Hence, the 3rd respondent has issued a notice under Section 91 Cr.P.C. to the respondent No.5 with a request to stop all transactions with regard to the subject property as the said transaction has been entered with the amount of depositors.

5. On behalf of the respondents No.2, 4 and 5, no counter affidavit has been filed.

6. The learned counsel for the petitioner submitted that the 3rd respondent, Station House Officer, has no power or authority to address a letter to the 5th respondent, Sub Registrar, directing him not to entertain any registration in respect of the subject property and following the same by the 5th respondent, Sub-Registrar, is bad and illegal. It is further submitted that when the vendor admitted the execution, it is the duty of the Sub-Registrar to receive the document and register the same, if proper stamp duty is paid and the property is within his jurisdiction. The Sub-Registrar is not expected to conduct a roving enquiry regarding the title and ownership of the property of the persons, who executed the document. Further, the Sub-Registrar is not bound by the instructions or letter given by the Police in the matter of registration and has to act only in accordance with the provisions of the Registration Act, 1908 while admitting or rejecting

the document for registration. It is further submitted that for any property to be placed in the prohibitory list of registration maintained by the Sub-Registrar, the said property shall be classified under one of the five categories enumerated under the Section 22-A and the same shall be notified in the official Gazette of the State Government. That only after the said properties falling under various categories under Section 22-A have been published or notified in the Gazette, the Sub-Registrar can refuse to register such properties notified. In the instant case, there is no such Gazette notification notifying the subject property as prohibitory property and therefore, the action of the respondents in refusing to register the document presented by the petitioner with respect to the subject property is in contravention to the provisions of the Registration Act, 1908.

7. On the other hand, the learned Assistant Government Pleader for Home appearing on behalf of the respondents No.1 and 3, while reiterating the counter averments would submit that the crime registered against the vendor of the petitioner is under investigation and after finalization of the investigation an appropriate report will be filed before the competent Court and in case, if the impugned refusal order is set aside or suspended, the accused persons may repeat the offence and enter into transaction with gullible people, as such, there are no ground to set aside the impugned refusal order.

8. Having gone through the material on record, it is not in dispute that the petitioner after paying the requisite challan and fee submitted the subject document for registration in respect of the subject property and the Registering authority has issued Intimation of Refusal letter No.6/2024 dated 25.01.2024 on the ground that the Inspector of Police, P.S. Kamareddy addressed a letter dated 15.03.2021 requesting to stop all transactions on the immovable property documents, which were purchased fraudulently with the amount of deposits.

9. At this juncture, it is not out of place to refer the order dated 19.10.2023 passed in W.P. No.28300 of 2007 and batch wherein and whereby challenged the validity of Section 22-A of the Registration Act and the Division Bench of this Court had upheld the validity of the Section 22-A of the Registration Act.

10. For the facility of reference, Section 22-A of the Act is extracted hereunder.

“22-A. Prohibition of Registration of certain documents:--

(1) The following classes of documents shall be prohibited from registration, namely:--

(a) documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government;

(b) documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease in

respect of immovable property owned by the State or Central Government, executed by persons other than those statutorily empowered to do so;

(c) documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease exceeding (ten) 10 years in respect of immovable property, owned by Religious and Charitable Endowments falling under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 or by Wakfs falling under the Wakfs Act, 1995 executed by persons other than those statutorily empowered to do so;

(d) Agricultural or urban lands declared as surplus under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 or the Urban Land (Ceiling and Regulation) Act, 1976;

(e) Any documents or class of documents pertaining to the properties the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational, Cultural, Religious and Charitable Institutions, those attached by Civil, Criminal, Revenue Courts and Direct and Indirect Tax Laws and others which are likely to adversely affect these interest.

(2) For the purpose of Clause (e) of sub-section (1), the State Government shall publish a notification after obtaining reasons for and full description of properties furnished by the District Collectors concerned in the manner as may be prescribed.

(3) Notwithstanding anything contained in this Act, the registering officer shall refuse to register any document to which a notification issued under Clause (e) of sub-section (1).

(4) The State Government either suo motu or on an application by any person or for giving effect to the final orders of the High Court of Andhra Pradesh or Supreme Court of India may proceed to denotify, either in full or in part, the notification issued under sub-section (2)."

11. The Division Bench of this Court in the above batch of W.P. No.28300 of 2007 and batch vide its common judgment dated 19.10.2023 referred to the judgment of the Full Bench of this Court in **Vinjamuri Rajagopala Chary** (supra) paragraphs 155 and 156 at para Nos.30, 40 to 42 observed as under:

*"30. Thereafter, the Full Bench of this Court in **Vinjamuri Rajagopala Chary** in paragraphs 155 and 156 of its decision held as follows:*

"155. 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 subsection (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.

156. *We, thus, summarize our conclusions and issue directions as follows :*

(i) The authorities mentioned in the guidelines, which are obliged to prepare lists of properties covered by clauses (a) to (d), to be sent to the registering authorities under the provisions of Registration Act, shall clearly indicate the relevant clause under which each property is classified.

(ii) Insofar as clause (a) is concerned, the concerned District Collectors shall also indicate the statute under which a transaction and its registration is prohibited. Further in respect of the properties covered under clause (b), they shall clearly indicate which of the Governments own the property.

(iii) Insofar as paragraphs (3) and (4) in the Guidelines, covering properties under clause (c) and (d) are concerned, the authorities contemplated therein shall also forward to the registering authorities, along with lists, the extracts of registers/gazette if the property is covered by either endowment or wakf, and declarations/orders made under the provisions of Ceiling Acts if the property is covered under clause (d).

(iv) The authorities forwarding the lists of properties/lands to the registering authority shall also upload the same to the website of both the Governments, namely igrs.ap.gov.in of the State of Andhra Pradesh and registration.telangana.gov.in of the State of Telangana. If there is any change in the website, the State Governments shall indicate the same to all concerned, may be by issuing a press note or an advertisement in prominent daily news papers.

(v) No notification, contemplated by sub-section (2) of Section 22A, is necessary with respect to the properties falling under clauses (a) to (d) of subsection (1) of Section 22-A.

(vi) The properties covered under clause (e) of Section 22-A shall be notified in the official gazette of the State Governments and shall be forwarded, along with the list of properties, and a copy of the relevant notification/gazette, to the concerned registering authorities under the provisions of Registration Act and shall also place the said notification/gazette on the aforementioned websites of both the State Governments. The Registering authorities shall make available a copy of the Notification/Gazette on an application made by an aggrieved party.

(vii) The registering authorities would be justified in refusing registration of documents in respect of the properties covered by clauses (a) to (d) of subsection (1) of Section 22-A provided the authorities contemplated under the guidelines, as aforementioned, have communicated the lists of properties prohibited under these clauses.

(viii) The concerned authorities, which are obliged to furnish the lists of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, and the concerned Registering Officers shall follow the guidelines scrupulously.

(ix) It is open to the parties to a document, if the relevant property/land finds place in the list of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, to apply for its deletion from the list or modification thereof, to the concerned authorities as provided for in the guidelines. The concerned authorities are obliged to consider the request in proper perspective and pass appropriate order within six weeks from the date of receipt of the application and make its copy available to the concerned party.

(x) The redressal mechanism under Section 22-A(4) shall be before the Committees to be constituted by respective State Governments as directed in paragraph-35.1 above. The State Governments shall constitute such committees within eight weeks from the date of pronouncement of this judgment.

(xi) Apart from the redressal mechanism, it is also open to an aggrieved person to approach appropriate forum including Civil Court for either seeking appropriate declaration or deletion of his property/land from the list

of prohibited properties or for any other appropriate relief.

(xii) The directions issued by learned single Judges in six judgments (W.P.No.2775 of 2009, dated 15.03.2011; W.P.Nos.20050 of 2011 and batch, dated 08.09.2011; W.P.No.26566 of 2011, dated 18.01.2013; W.P.No.30526 of 2012 and batch, dated 31.12.2012; W.P.No.31409 of 2014, dated 29.01.2015 and W.P.No.24587 of 2014 and batch 01.06.2015) or any other judgments dealing with the provisions of Section 22-A, if are inconsistent with the observations made or directions issued in this judgment, it is made clear that the observations made and directions issued in this judgment shall prevail and would be binding on the parties including the registering authorities under the Registration Act or Government officials or the officials under the Endowments Act, Wakf Act and Ceiling Acts.

(xiii) If the party concerned seeks extracts of the list/register/gazette of properties covered by clauses (a) to (e) of Section 22-A (1), received by the registering officer on the basis of which he refused registration, it shall be furnished within 10 days from the date of an application made by the aggrieved party.

(xiv) Registering officer shall not act and refuse registration of a document in respect of any property furnished to him directly by any authority/officer other than the officers/authorities mentioned in the Guidelines.

(xv) Mere registration of a document shall not confer title on the vendee/alienee, if the property is otherwise covered by clauses (a) to (e), but did not find place in the lists furnished by the concerned authorities to the registering officers. In such cases, the only remedy

available to the authorities under clauses (a) to (e) of sub-section (1) of Section 22-A is to approach appropriate forums for appropriate relief.”

40. The Full Bench of this Court **in Vinjamuri Rajagopala Chary** (*supra*), after taking note of aforesaid guidelines, in para in 137 held as under:

137. Therefore, this notification which provides guidelines to the District Collectors for furnishing reasons and description of property prohibited from registration takes adequate care to prevent abuse and misuse of clause (e) of Section 22A(1) of the Registration Act. Hence, the apprehensions expressed before us are misplaced and do not need countenance. Further, the notification either in part or full is always subject to the Judicial Review. Therefore, in view of the adequate safety measures provided under Section 22A, in particular sub-sections (2) and (4) thereof insofar as clause (e) of sub-section (1) is concerned and the guidelines insofar as clauses (a) to (d) are concerned, in our opinion, any such misuse or abuse is subject to review by the Government and also judicial review and therefore, there is no possibility for any misuse or abuse and any such acts of misuse and/or abuse are amenable for correction.

41. The authority has to exercise the power under Section 22A of the Act in consonance with aforesaid guidelines. Therefore, the contention that exercise of power under Section 22A of the Act is unbridled or unfettered does not deserve acceptance. Even otherwise, a mere possibility of misuse of a provision ground not invalidate the same.

42. In view of preceding analysis, we do not find any merit in these writ petitions. The same fail and are hereby dismissed. The writ appeals are allowed.”

12. In the case on hand, the Registering authority refused to register the subject property based on the letter dated 15.03.2021 addressed by the Inspector of Police. In terms of the aforesaid order of the Division Bench and the guidelines issued by the Full Bench, as per directions (xiv), the Registering authority cannot act upon the letters issued by any authority other than the office of the authorities mentioned in the said guidelines. Hence, the impugned letter of refusal date 25.01.2024 is not in accordance with the guidelines prescribed by the Full Bench. In view of the same, the impugned refusal letter dated 25.01.2024 is liable to be set aside and is accordingly set aside. The 5th respondent, Sub-Registrar, is directed to register the subject document in respect of property bearing Flat No.202 in Second Floor of Murugan Enclave on Plot No.676 in Sy.Nos.100, 101 & 105 situated at Quthbullapur village and mandal, Medchal – Malkajgiri District, within a period of three weeks from the date of receipt of a copy of this order, subject to compliance of provisions of the Indian Registration Act, 1908 and Indian Stamp Act, 1899.

13. It is made clear that mere registration of the document does not confer title on the subject property and it is also made clear that this order would not have any bearing on all those matters where

title/rights of the parties are pending before the authorities either in revision/appeals for adjudication and in any other case this order also does not preclude the parties in asserting their rights before a competent Court of law.

In the result, this writ petition is allowed. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

JUSTICE N.V.SHRAVAN KUMAR

Date: 02.04.2024

Note: L.R. copy be marked.

**B/o.
LSK**