

THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO

CONTEMPT CASE No.1931 of 2017

ORDER:

Heard Sri K.S.Murthy, learned Senior Counsel, appearing for Sri G.V.V.S.R. Subrahmanyam, learned counsel for the petitioner, and Sri G. L. Narasimha Reddy learned counsel, appearing for the respondents.

2. Sri K. Yerraiah and others had applied for a Ryothwari patta over an extent of Ac.7.00 cents of land in Sy.No.314 of Kapuluppada Village, Bheemunipatnam Mandal, Visakhapatnam District, under the provisions of Andhra Pradesh Estates Abolition Act. The Joint Collector-cum-Settlement Officer by proceedings bearing SR.No.11(a)/4/10/VSP dated 05.02.2011 had granted the said patta.

3. An appeal against the said order was filed by the Tahsildar, Bheemunipatnam before the Commissioner and Director of Settlements, A.P Hyderabad. This appeal was dismissed by order dated 17.02.2012 in RP.13/201/A2. A revision was filed against the orders of the Commissioner and Director of Settlements before the

Commissioner of Appeals A.P Hyderabad was allowed, setting aside the orders granting ryothwari patta. Sri K. Yerraiah and others approached the erstwhile High Court of Andhra Pradesh, by way of W.P.No.31157 of 2012, against this order. The High Court had disposed of the writ petition, on 25.07.2014, remanding the matter back to the Commissioner Appeals. Thereupon, the revision petition was dismissed by the Commissioner of Appeals by proceedings bearing CCLA's Ref.No.P1/979/2012 dated 20.03.2015.

4. While the Ryothwari Patta was confirmed in favour of Sri K.Yerraiah and others in these proceedings, the said land was placed in the prohibitory list maintained under Section 22(A) of the Indian Registration Act, maintained by the Joint Registrar, Bheemunipatnam. Aggrieved by this action, Sri K.Yerraiah and others had filed W.P.No.30569 of 2015 before the Hon'ble High Court which had directed that the writ petitioners therein can file a petition before the Collector, Visakhapatnam for deletion of their lands from the prohibitory list. In pursuance of these directions Sri K.Yerraiah and others appear to have filed a petition to the Collector which remained pending.

5. At that stage, the petitioners herein had purchased the aforesaid land from Sri K.Yerraiah and others in the year 2011, by way of written deeds of sale, which were presented for registration before the District Registrar. As these documents were not being released, the petitioners herein had moved W.P.No.19180 of 2016 before the erstwhile combined High Court at Hyderabad. This writ petition was disposed of on 20.06.2016 directing the release of the documents and the District Registrar had released the documents of the petitioners.

6. The petitioners had then approached the Mee-seva Kendram for filing mutation application on 24.03.2013. This application was refused on the ground that Sy.No.401/5 of Kapuluppada village was not available in the web land as the lands were included in the prohibitory list.

7. The petitioners had thereupon approached the District Collector, Visakhapatnam and the Tahsildar, Bheemunipatnam, by a representation dated 24.03.2017 for deletion of the said land from the prohibitory list maintained under Section 22(A) of the Indian Registration Act.

8. As no steps were being taken in pursuance of this request, the petitioners approached this Court, by way of W.P.No.15854 of 2017 which was disposed of by a learned Single Judge of the erstwhile combined High Court in the following manner:

“Since it is stated that the petitioners’ representation dated 24.03.2017 for deleting the subject property from the list of prohibited properties under Section 22A of the Registration Act, the 2nd respondent is directed to dispose of the said representation in terms of the Full Bench Judgment reported in **Vinjamuri Rajagopala Chary and others v. Principal Secretary, Revenue Department, Hyderabad and Others** reported in 2015 SC Online Hyd 407 : (2016) 2 ALD 236 (FB) for deletion of subject property from the prohibited list within a period of two months, from the date of receipt of a copy of this order, in accordance with law”.

9. As the respondents were not disposing of the application of the petitioners, a contempt notice dated 03.08.2017 was sent to the District Collector, Visakhapatnam. Thereafter, the petitioners filed the present contempt case with the complaint that no action was taken

by the respondents even after receipt of the said show cause notice.

10. The Contempt Case was initially filed against the then incumbent District Collector Sri Praveen Kumar. Thereafter, Dr. A. Mallikarjuna, who had succeeded as the District Collector, was impleaded by an order of this Court dated 13.09.222 in I.A.No.1 of 2022.

11. The 1st respondent has filed a counter affidavit on 19.02.2018 and an additional counter affidavit dated 12.06.2023. The 2nd respondent filed reply affidavit on 25.08.2022. In the counter filed on 19.02.2018, the 1st respondent stated that the request of the petitioners had been rejected by him in proceedings bearing RC.No.3153/2014/F2 dated 08.11.2017. The 1st respondent further contended that this order was passed even prior to the service of the notice in the Contempt Case and that a detailed endorsement was issued in obedience to the orders of the Court dated 27.04.2017 in W.P.No.15854 of 2017.

12. The 1st respondent narrating the history of the case would state that the order granting Ryothwari Patta to

Sri Yerraiah and the same had been confirmed by the Commissioner of Appeals had thereafter these proceedings were challenged before this Court, by way of W.P.No.4348 of 2018 and *Status quo* was directed to be maintained, by orders dated 12.02.2018, pending disposal of the writ petition. The said writ petition was withdrawn on 29.01.2021, on the ground that the writ petition could not have been filed by the Tahsildar and that permission should be granted for withdrawing the writ petition with leave to file a proper writ petition afresh. This leave was also granted. It is stated that the District Collector, Visakhapatnam has now filed W.P.No.15384 of 2021 before this Court and the same is pending before this Court. There is no mention of any stay granted by this Court against the operation of the orders of the Commissioner Appeals.

13. The question of whether the 1st respondent has violated the directions of this Court would have to be considered in the light of the above facts.

14. The direction of this Court to the 1st respondent was to consider the application of the petitioners, for deletion of the land claimed by them, from the prohibitory list, following the directions of the Full Bench of the

erstwhile High Court of A.P in the case of **Vinjamuri Rajagopala Chary vs. Revenue Department**¹. The directions in Vinjamuri Rajagopala Chary's case, which are relied upon by the petitioners, are as follows:

133. Having regard to the principles culled out in the judgments of the Supreme Court, in our firm and considered opinion, sub-section (2) of Section 22-A does not contemplate such hearing and it is clear from the scheme of Section 22-A, in particular sub-section (4) thereof. Sub-section (4) provides for an effective mechanism/remedy to a person aggrieved by the notification prohibiting registration of a document to either complain to the State Government or to make an application to de-notify, either in full or in part the notification issued under sub-section (2). When the Government is satisfied that a property is wrongly notified it may either suo motu or on an application by any person de-notify either in full or in part the notification issued under subsection (2). This clearly indicates that if a property is incorporated or mentioned in the notification and if any person is aggrieved thereby, he has a remedy to approach the State Government challenging inclusion of his property and if he satisfies concerned authority of the State Government, it may proceed to de-notify either in full or in part the notification issued under sub-section (2). So far as sub-section (3) of Section 22-A is concerned, it provides that notwithstanding anything contained in the Registration Act, the registering officer has power to refuse registration of a document to which a notification is issued under clause (e) of sub-section (1). Thus, it is clear that while issuing/publishing a notification, hearing is not contemplated under sub-section (2) of Section 22-A since sub-section (4) of Section 22-A provides a remedy to an aggrieved party to approach the State Government for deletion of his

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

property from the notification. It is needless to mention that if an application, as contemplated by subsection (4) of Section 22-A, is made by any person the concerned authority is expected to grant an opportunity of being heard and also to produce the materials/documents in support of his claim and that the concerned authority shall deal with the application and the prayer made therein in the light of the material/documents produced by him and to pass a speaking order either rejecting the application or allowing the same by deleting his property from the notification.

158. 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 on both the Governments, namely igrs.ap.gov.in 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 sub-section (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 referred to above 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.

(x) 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.

15. The 1st respondent in, ostensible compliance of the directions of the Court, issued proceedings dated 08.11.2017 which read as follows:

“Sri L.Srinivasa Rao, Dabagardens, Visakhapatnam has filed an application in the reference read above, requesting for deletion of land in Sy.No.314 of Kapuluppada (V), in Bheemunipatnam Mandal from the list of Government lands prohibited from Registration under Section 22-A of Indian Registration Act.

After careful examination, as the land in Sy.No.314 of Kapuluppada stands classified as Government Land, and the Tahsildar, Bheemunipatnam has been already instructed to take action by filing necessary appeals where ever necessary to protect the valuable government lands, the request of the applicant Sri L.Srinivasa Rao is, hereby rejected”.

16. The petitioners contend that this order has been passed without giving any opportunity of hearing to the petitioners and without giving them an opportunity to place necessary material in relation to their application. The petitioners contend that this is in direct violation of the directions of the Full Bench in Vinjamuri Rajagopalachary's case requiring an opportunity of hearing and an opportunity to place material before any order is passed. The petitioners contend that such violation would also amount to a violation of the directions of this Court in the present case as the 1st respondent was directed to pass orders in terms of the directions of the Full Bench in Vinjamuri Rajagopalachary's case.

17. After the said order had been passed, the 1st respondent issued a subsequent proceeding bearing R.C.No.3153/14/F2 dated 12.02.2018 giving additional reasons as to why the application of the petitioners was rejected. These reasons are essentially a recital of the grounds of appeal being raised against the orders of the Commissioner of Appeals in the proceedings dated 20.03.2015 with a further statement that a writ petition

bearing W.P.No.4348 of 2018 had been filed before the erstwhile combined High Court at Hyderabad.

18. The petitioners contend that both the orders, of rejection of the application of the petitioners, were passed on the ground that the orders of the Commissioner of Appeals in the office of the Commissioner Land Revenue are incorrect and cannot be acted upon. Further, the 1st respondent, under the pretext of a pending writ petition, had rejected the application of the petitioners and the same would amount to a violation of the directions of this Court.

19. Sri G.L.Narasimha Reddy learned counsel, appearing for the respondents would submit that the respondents have utmost respect for the orders of this Court and the order of refusal was passed for the purpose of protecting the interests of the State and to ensure that valuable lands belonging to the State are not illegally alienated or occupied by 3rd parties. He would submit that there is no intention on the part of the respondents to disobey the orders of this Court and the said orders came to be passed in the peculiar circumstances mentioned above. He would further submit that as there is no willful refusal to obey the orders of this Court and as there is no willful

disobedience of the orders of this Court, the Contempt Case may be closed.

20. The 1st respondent claims that the order dated 08.11.2017 was passed in compliance of the directions of this Court. The direction of this Court was to pass orders in terms of the Judgment of the Full Bench in Vinjamuri Rajagopalachary vs. Revenue Department. This required the 1st respondent to give a notice to the petitioners and give them an opportunity to make out their case and to place all such documents that they deemed necessary. No such opportunity has been given to the petitioners and the order passed by the 1st respondent on 08.11.2017 is a clear violation of the directions of this Court. The ground for rejection, raised in the order dated 08.11.2017, is that the land has been classified as "Government Land" and that the Tahsildar had been instructed to take action for filing necessary appeals due to which the application of the petitioners is being rejected. The 1st respondent has obviously ignored the earlier proceedings of the Joint Collector which was affirmed by the Director of Settlements and subsequently the Commissioner of Appeals. This Court while dealing with a Contempt Case, would normally accept

the issuance of a rejection order, in the nature of the rejection order dated 08.11.2017, as sufficient compliance of the directions of this Court and leave it open to the petitioners to agitate their rights against the said order. The present case does not fall into that category.

21. While the order, at a *prima facie* level, would amount to compliance of the directions of this Court, the same cannot be accepted on a closer look. The fact remains that the 1st respondent while, passing the order dated 08.11.2017, had clearly ignored the directions of this Court and the said order is a clear violation of the directions of this Court.

22. The 1st respondent issued a 2nd proceeding on 12.02.2018 stating that the order of the Commissioner and Director of Settlements and the orders of the Commissioner Land Appeals are wrong and consequently the application of the petitioner was being rejected. The conduct of the 1st respondent, in issuing the additional proceedings, clearly shows that the 1st respondent having realized his mistake in passing the earlier order, is now attempting to add substance to his initial order. Even here, the 1st respondent did not give an opportunity of hearing to the petitioners nor

give an opportunity to place their material before the 1st respondent. The contents of the order dated 12.02.2018 would only go to show that the 1st respondent, who is bound by the orders of the Commissioner and Director of Settlements and the orders of the Commissioner Appeal has chosen to disregard these orders and reject the application of the petitioners on the plea of a pending writ petition. The interlocutory orders, in this writ petition, relied upon by the 1st respondent, during the hearing of the contempt case, are only a direction to maintain status quo. The 1st respondent did not advert to the interlocutory orders, in the writ petition. This writ petition was withdrawn and a fresh writ petition was filed. However, no interlocutory orders have been passed in the new writ petition and as such the 1st respondent ought to have complied with the directions of this court.

23. Even if the pending proceedings have to be taken into account, the 1st respondent could at best have approached this Court for extension of time in passing orders on the ground of the pendency of the W.P.No.4348 of 2018. Instead of approaching this Court, the 1st respondent took it upon himself to sit in Appeal over the orders of the

Commissioner and Director of Settlements and the orders of the Commissioner Appeals and rejected the application of the petitioners.

24. The conduct of the 1st respondent in this regard exhibits a clear refusal to comply with the directions of this Court. The 1st respondent may claim that he had undertaken this course of action to protect the interests of the State. However, such a claim cannot detract from the fact that there has been a clear willful disobedience of the orders of this Court. The manner in which the proceedings have been initiated without seeking any extension of time and rejecting the application itself on the ground of a writ petition having been filed by the Revenue Department cannot be condoned on the altar of protection of State interest.

25. The course of action that was open to the 1st respondent was to either approach this Court for extension of time for passing the orders or to obtain a stay of operation or suspension of the orders of the Commissioner appeals. The refusal of the 1st respondent to take up either course of action is a clear case of willful defiance of the orders of this Court.

26. The 2nd respondent has been impleaded after he had taken charge as the Collector of Visakhapatnam district. By then the order of rejection and the subsequent proceeding to justify the initial order had also been passed by the 1st respondent. In view of these orders, the 2nd respondent had no further role in the matter, except to the extent of taking note of the fact that there were no orders of status quo in the second writ petition and to undertake remedial measures. To that extent there has been a failure on the part of the 2nd respondent. This failure may not meet the standards of willful defiance of the orders of this court and the 2nd respondent is discharged from the contempt case with a word of caution to follow up on the orders of the court and ensure proper and timely compliance of the orders of the court.

27. The 1st Respondent is in clear violation of the orders of the court. The unconditional apology proffered by the 1st respondent appears to be an apology for the delay in passing the order of rejection and not for any violation of the orders of the court.

28. The orders of this court were passed in the year 2017. This Contempt case has been filed in 2017. Six long years have passed without the orders of this court being implemented. The conduct of the 1st respondent is impermissible and any lenience in the face of such conduct would be counterproductive to the rule of law and enforcement of the orders of this court.

29. Accordingly, the 1st respondent is awarded the punishment of undergoing simple imprisonment of 2 weeks and paying a fine of Rs.2,000/- (Rupees two thousand only), within two weeks from today. Failure to pay the said fine will result in the 1st respondent undergoing a further simple imprisonment of one week.

30. The operation of this order is stayed for a period of 4 weeks.

31. Accordingly, the Contempt Case is allowed.

Miscellaneous petitions, pending if any, shall stand closed.

JUSTICE R.RAGHUNANDAN RAO

Date : 10.07.2023

RJS

THE HON'BLE SRI JUSTICE R.RAGHUNANDAN RAO

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