(2013) 06 AP CK 0067

In the Andhra Pradesh High Court

Case No : Writ Petition No. 10068 of 2013

Pasuparthi Jayaram, Pasuparthy Parthasarathi and Y.V. Harikrishna	APPELLANT
Vs	
The Government of Andhra Pradesh	RESPONDENT

Date of Decision : 03-06-2013

Acts Referred:
Registration Act, 1908 — Section 22A(1)(c), 22A(2)

Citation : (2013) 5 ALD 785 : (2013) 4 ALT 541

Hon'ble Judges : Sanjay Kumar, J

Bench : Single Bench

Advocate : Mahadeva Kanthrigala, for the Appellant;

Final Decision : Allowed

Judgement

Sanjay Kumar, J.—The petitioners assail the proceedings dated 19.04.2010 issued by the Commissioner, Endowments Department, Andhra Pradesh, to various Registration Authorities in Chittoor District indicating the particulars of immovable properties allegedly belonging to Sri Hathi Ramji Math, Tirupati and Sri Bugga Math, Tirupati and requesting the Registration Authorities to desist from entertaining registration of documents in connection with these properties. This communication was ostensibly issued u/s 22-A(1)(c) of the Registration Act, 1908 (for short ''the Act of 1908''). It is the complaint of the petitioners that basing on this communication, the Joint Sub-Registrar-1, Tirupati, refused to receive the documents presented by them in respect of their lands in Survey No. 242/B of Tirupati Village, Tirupati Urban Mandal, Chittoor District, as the said lands were indicated in the list appended to the proceedings dated 19.04.2010 as properties of Sri Hathi Ramji Math, Tirupati.

2. Despite service of notice through the learned counsel for the petitioners, there is no representation on behalf of Sri Hathi Ramji Math, Tirupati, the second respondent in the writ petition.

3. In his counter, the Joint Sub-Registrar-1, Tirupati, stated that the subject lands were classified as properties belonging to the Endowments Department as per the proceedings dated 19.04.2010 received from the Commissioner of the Endowments Department He opined that registration of documents pertaining to the subject lands was prohibited u/s 22-A(1)(c) of the Act of 1908. He further stated that as long as the lands were included in the list of Endowment properties, he had no option except to refuse registration of the documents pertaining thereto.

4. Section 22-A of the Act of 1908, to the extent relevant, reads as under:

22-A. Prohibition of registration of certain documents:

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

(a) ....

(b) ....

(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) ....

(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 other which are likely to adversely affect these interests.

(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.

5. A bare reading of the above provision makes it clear that the prohibition contemplated by clause (c) of sub-section (1) of Section 22-A of the Act of 1908 relates to the status of the executant of the document relating to properties owned by Religious/Charitable/Endowment/Wakf institutions. Registration of documents executed by other than those statutorily empowered to do so in respect of such properties is prohibited thereunder. The said provision pre-supposes the title of the institution over the land and merely prohibits registration of documents executed by those without authority. Therefore, the only list that could be communicated under this provision would be a the list of

those designated persons who have power and authority to execute documents on behalf of the Religious/Charitable/Endowment/Wakf institutions and not a list of the properties belonging to such institutions.

6. The communication dated 19.04.2010 addressed by the Commissioner of the Endowments Department of the State therefore proceeds on a complete misconception and misunderstanding of the scope of the above provision. In the event the Religious/Charitable/Endowment/Wakf institution seeks to assert any right over a property, prohibition as to registration of documents relating to such property can operate only if a notification is issued u/s 22-A(2) of the Act of 1908 in connection with Section 22-A(1)(e) thereof.

7. In the absence of a notification u/s 22-A(2), it is not open to the Endowments Department to communicate a list of properties allegedly owned by religious institutions by way of a letter and trace the power to do so to Section 22-A(1)(c) of the Act of 1908.

8. The communication dated 19.04.2010 addressed by the Commissioner of Endowments, Andhra Pradesh, to various Registration Authorities in Chittoor District is therefore without jurisdiction and cannot be sustained. The same is accordingly set aside and the Joint Sub-Registrar-1, Tirupati, is directed to receive and process the documents presented by the petitioners in respect of their lands in Survey No. 242/B of Tirupati Village, Tirupati Urban Mandal, Chittoor District, without reference to the said communication. In the event the documents presented are found to fulfil the requirements of the Registration Act, 1908 and the Indian Stamp Act, 1899, the Joint Sub-Registrar-I, Tirupati, shall complete the registration formalities and release the documents in accordance with the due procedure. The writ petition is accordingly allowed. W.P.M.P. No. 12521 of 2013 shall stand closed in the light of this final order. No costs.

