

PROTECTION OF GOVERNMENT LAND

(including Section 22-A)

By

B. Ramaih. IAS (Retired)

INTRODUCTION

- Govt .Lands are being engulfed by unscrupulous elements of Society resulting in
 - Govt is forced to acquire land for Public Purpose.
 - Lack of availability of land for Assignment to poor.
 - Industrial and economic development is hampered .
 - Government has to fight in the Courts .
 - **PROTECTION OF GOVT LAND AND PREVENTION ARE ESSENTIAL .**

AVAILABLE TOOLS FOR PROTECTION OF GOVT. LANDS

- **Statutory Provisions.**
- **Proper maintenance of records.**
- **Prompt and timely action .**
- **Pursuing of Court Cases .**

STATUTORY PROVISIONS

- **Registration Act 1908 -Section 22A .**
- **THE A.P. Assigned Lands (Prohibition of Transfers) ACT, 1977.**
- **The Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purpose) ACT, 2006.**
- **A P Land Encroachment Act , 1905.**

REGISTRATION ACT 1908 -SECTION 22A .

- Govt. of A P **incorporated** Section 22-A by Act 4 of 1999- Govt. to notify **prohibiting the registration of** such documents or class of documents as opposed to public policy.
- It was **struck down** - W.P.No.14099 of 2003 & batch - -- the public policy was not defined precisely .
- The Act was suitably **amended** by substitution by Act 19 of 2007- to **overcome** the deficiencies as observed by the Hon'ble High Court-to **avoid the illegal transactions** of transfer of property relating to Government, Religious and Charitable Institutions, etc.

---contd

REGISTRATION ACT 1908 -Sec 22A -contd .

➤ **Classes of documents** prohibited from registration are related to ---

--- the alienation or transfer , prohibited under any **statute** of State or Central Government. **Sec 22A (1)(a)**

---- transfer of property by way of sale, agreement of sale, gift, exchange or lease , **owned by** the State or Central Government (when executed by persons other than those statutorily empowered to do so) **Sec 22A (1)(b)**

---- transfer of property by way of sale, agreement of sale, gift, exchange or lease exceeding (ten) 10 years, owned by **religious and charitable endowments or by Wakfs** (when executed by persons other than those statutorily empowered to do so) **Sec 22A (1)(c)**

---contd

REGISTRATION ACT 1908 -Sec 22A -contd .

-----transfer of Agricultural or urban lands declared as **surplus** under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and the Urban Land (Ceiling and Regulation) Act, 1976.

Sec 22A (1)(d)

----- Transfer of such properties (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) notified by the State Government prohibiting the registration

Sec 22A (1)(e)

---contd

REGISTRATION ACT 1908 -Sec 22A –contd ■

- The registering officer shall refuse to register any document covered by Sec 22A (1) (a) to 22A (1) (e)

Sec 22A (3)

Procedure to be followed

- Government issued Guidelines in in Circular Memo No.G1/19131/05, dt. 14- 09-2007 of Reg.and Stamps Dept.-- procedure for preparing lists of properties that attract the provisions of Section 22 A.
- Writ Petitions were filed against the methodology / procedural aspects in implementation of Section 22A. The Honourable High Court discussed all the aspects at length and issued the Orders in common judgement issued in W.A.Nos.343 OF 2015, 232 OF 2012 AND 352 of 2013 , dated 23.12.2015 have.
- CCLA issued certain instructions in reference in Memo No. Assn. I (1) 126/ 2016 Dated 08.02.2016 .

--contd

REGISTRATION ACT 1908 -Sec 22A –contd ■

- Broadly the procedure, in preparation of lists covering the documents prohibited from Registration is of two categories.

First Category -Covered by Section 22A (1) (a), 22A (1)(b) , 22A (1) (c) and 22A (1) (d)

- Simply the lists prepared are to be sent to Sub Registrars .

-----contd

REGISTRATION ACT 1908 -Sec 22A –contd ■

Sl. No	Properties covered	Format for preparation of list	Competent Authority to sign the lists	Authority to furnish the lists to Sub registrars
1	22A(1) (a)	Annexure-I	District Collector / Joint Collector	District Collector
2	22A(1) (b)	Annexure-II	Authorised Representatives of State and Central Govt.	District Collector
3	22A(1) (c)	Annexure-III	Commissioner Endowments / Secretary Wakf Board	Commissioner Endowments / Secretary Wakf Board.
4	22A(1) (d)	Annexure-IV	Not below the rank of RDO / Competent Authority ULC.	Not below the rank of RDO / Competent Authority ULC.

REGISTRATION ACT 1908 -Sec 22A -contd ■

- Sub Registrars to **enter in** the prohibited property registers maintained electronically and also manually.
- Sub Registrars to **confirm** the fact of having made entries to the Commissioner and Inspector General of Registration and Stamps within 15 days from the date of receipt of the intimation/publications.
- All intimations are also to be published on 'website'.
- **deletions or modifications** to these lists should be sent to Commissioner and Inspector General of Registration and Stamps, who in turn will furnish the same to the concerned Registering Officers for necessary action

---contd

REGISTRATION ACT 1908 -Sec 22A –contd

Second Category --Covered by Section 22A (1) (e)

- properties covered under 22A (1) (e) shall be notified in the official gazette of the State Governments
- copy of the notification/gazette to be sent to the concerned registering authorities along with list.
- The notification/gazette shall be placed on the websites of the State Government.
- The Registering authorities shall make available a copy of the Notification/Gazette on an application made by an aggrieved party.
- 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 de notify. Sec 22 A (4)
- The redressal mechanism under Section 22-A(4) shall be before the Committees to be constituted --- State Government constituted the committee .

OTHER STATUTORY PROVISIONS

- **By taking prompt action under THE A.P. ASSIGNED LANDS (PROHIBITION OF TRANSFERS) ACT, 1977, the interests of the Assignees are protected directly and Govt. land indirectly .**
- **The Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purpose) ACT, 2006 provides mechanism to protect the Govt . Land from being converted for non agricultural purpose by thoroughly verifying the records and field before permission is accorded by RDO**
- **By resorting to the provisions of A P Land Encroachment Act in the early stages , not only encroachments can be evicted , but also prolonged litigations are avoided .**

PROPER MAINTENANCE OF RECORDS.

- **Village Account No.1 to be maintained in updated state every year .**
- **Village Account No. 3 to be maintained in updated state every year - proper entry to be made in column No.6 .**
- **Village Account No 4C be written properly every year .**
- **Mere writing above records properly is not sufficient, but taking subsequent action is equally important .**

PURSUING OF COURT CASES

- **In Revenue Courts to dispose of the cases of Encroachments in minimum period.**
- **Suits and Writ petitions filed be tackled in time by filing proper Written Statements / Counters duly covering the averments made in Plaint Copy / Petitioner's Affidavits – Emphasis must be on classification of land .**

The End