

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.1640 OF 2015

ORDER:

Heard learned counsel for the petitioner and the Government Pleader.

With the consent of learned counsel appearing for the parties, the writ petition is taken up for final disposal.

The subject matter of the writ petition is Acs.8-17 cents out of Acs.17-10 cents in Sy.No.81/1 of Dugganapalli Village fields, Chennur Mandal, YSR Kadapa District.

The petitioner assails the endorsement dated 20.12.2014 of 5th respondent as illegal, unconstitutional and totally without jurisdiction. The petitioner prays for a consequential direction to the 5th respondent to receive and register the document presented for registration, concerning the subject matter of writ petition.

The case of petitioner is that he is the absolute owner and possessor of the subject matter, having purchased the same through document No.1624/1983 dated 02.04.1983 from Madhyapathi Suresh Rao. The said Madyapathi Suresh Rao, it is averred, has purchased the property through document No.3481/1980 dated 01.07.1980 from one G.Sriramulu. I do not propose to trace back to the earliest sale transaction by giving all the details. It is suffice to note that through document No.330/1922 dated 12.01.1922, one Chenna Reddy sold an extent of Ac.8-55 cents out of Acs.17-10 cents in Sy.No.81/1 in favour of Venkata Subbaiah. In this background, the case of petitioner is that much earlier to 1922, the subject matter has been treated as private patta land. The subject matter was and is firstly not a Government land, secondly not assigned and thirdly the respondents have failed to show that the provisions of the

A.P. Assigned (Prohibition of Transfer) Act 9/1977 are attracted.

It is the further case of petitioners that the Tahsildar/ 4th respondent without properly examining the record forwarded the list to the 5th respondent, including the subject matter of the writ petition in the prohibitory list. It is contended that such inclusion is arbitrary and unconstitutional.

The 4th respondent filed counter-affidavit and states that Sy.No.81 measuring Acs.17-10 cents is classified as Government land (dots) in the R.S.R of Dugganpalli Village and Sy.No.81 was subsequently sub-divided and DKT pattas were granted to the landless poor persons; that DKT files and DKT register were not traced or available in the office in spite of thorough search by the respondent. It is further averred that the writ petitioner has also not produced the DKT pattas granted in respect of the above land.

It is further contended that an extent of Acs.9-49 cents in Sy.No.81/1 was included by the then Tahsildar and the 5th respondent has rightly refused registration. The Government since has prohibited the purchase and sale of Government lands and treated them as null and void, the recourse to Section 22-A of the Registration Act has been taken and said communication sent. Therefore, the respondent prays for dismissal of the writ petition.

With a view to giving opportunity to respondent No.4, he was directed to be present in Court with record in support of his assertion that the subject matter is an assigned land. The Tahsildar was present and stated that there is no record in the office of Tahsildar showing that the subject matter is an assigned land.

The stand of 4th respondent presents contradiction and also curiosity. The 4th respondent presumes that the subject matter is an assigned land. The said assignment, it is stated, is with the condition

of non-alienability. Therefore, for inclusion in the prohibitory list under Section 22-A of the Registration Act or for exclusion from the prohibitory list, the assignment and evidence thereof, are relevant circumstances. Had it been a case where respondent No.4 is in a position to *prima facie* show that the petition land is an assigned land and secondly that the assignment is with a condition of non-availability, then the inclusion can be justified. But, in the case on hand, in support of the plea that the subject matter is an assigned land, the 4th respondent has miserably failed to produce the assignment file as well as the register.

Therefore, in view of the burden on the 4th respondent to justify, the inclusion in prohibitory list for registration under Section 22-A of the Registration Act is not discharged. If the case of petitioner is independently considered, what is evident is that the earliest sale transaction in respect of the subject matter is through document No.330/1922 dated 12.01.1922. Thereafter, as many as 11 transactions have taken place in respect of the same property. The 4th respondent introduced the plea that as against the total extent of Ac.17-10 cents, Acs.9-49 cents was included as DKT land on the recommendation of the then Tahsildar. The inclusion of a portion of land is again not properly explained. To attract the provisions of Act 9 of 1977, the assignment should be with a condition of non-alienability. The said issue is well settled through the following authoritative pronouncements. Further, in **G.SATYANARAYANA AND OTHERS v. GOVERNMENT OF A.P, REP. BY ITS SECRETARY, REVENUE DEPARTMENT AND OTHERS**^[1], this Court has considered the effect of showing dots in RSR register and said, *prima facie* description of dots does not conclude the title of Government in disputed land.

For all the above reasons, inclusion of subject matter in prohibitory list and refusing to register is illegal and unauthorized. The

endorsement communicated by respondent No.4 through letter Ref.No.B29/2009 dated 07.02.2009 is set aside. The 5th respondent is directed to receive and register the document presented for registration in respect of Sy.No.81/1 in an extent of Acs.8-17 cents out of Acs.17-10 cents, consider the same in accordance with the provisions of the Registration Act and Stamps Act and pass appropriate orders.

The writ petition is, accordingly, allowed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

S.V.BHATT, J

03rd March, 2015
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[\[1\]](#) 2014(3) ALT 473