

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**TUESDAY THE THIRTYFIRST DAY OF MARCH
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO.37148 OF 2014

Between:

Bachupalli Sadasiva Reddy

& Ors. ... Petitioners

V/s.

The State of Andhra Pradesh

Represented by its Prl.Secretary

[Revenue]

Secretariat Buildings,

Hyderabad & Ors. ... Respondents

Counsel for the Petitioner : Sri Ginjupalli Subba Rao

Counsel for the Respondents : GP for Revenue

The court made the following : [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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ORDER:

Heard Sri G.Subba Rao, learned counsel for petitioners and the Government
Pleader for Revenue.

2. The subject-matter of the writ petition is survey No.1220 in an extent of

Acs:4-55 cents of Chilamkur village, Yerraguntla Mandal, Kadapa district.

3. The petitioners pray for mandamus, declaring the action of third respondent in not processing the document for registration covered by the petition-land firstly as illegal and amounts to refusal to discharge the duty cast on the Registering Authority by the Registration Act.

4. The petitioners complain against the inferential inclusion of petition-land in the prohibited list of assigned lands as illegal and unconstitutional.

5. The case of petitioners is that the petition-land was and is a private patta land. Further the petition-land is not an assigned land and alienable condition is not attached to the grant. The petitioners strongly place reliance upon the communication No.G/NOC/1908/2012, dated 08/05/2012 in support of their assertion that the petitioners land is a private patta land and that the inclusion of petition-land in the prohibitory list is admitted as a mistake by the Revenue Department. Once the Revenue Department admits that the petition-land is a private patta land and the inclusion in the prohibitory list is a mistake, the Sub-Registrar has no option except to receive and register the document for the property covered by petition-schedule. The refusal or calling upon the petitioners to obtain NOC from Revenue Department is arbitrary and illegal.

6 . The petitioners place strong reliance upon re-survey and re-settlement register to contend that even in the R.S.R, the interest of private parties is noted. Further the names of owners are included in the register of holdings maintained for Chilamkur village. The Communication No. B/219/2012 dated

27/09/2014 from the Office of Tahsildar addressed to the Revenue Divisional

Officer, Kadapa, reads as follows :

“The matter was referred to the Mandal Revenue Inspector, Yerraguntla, for Enquiry and Report the facts.

The Mandal Revenue Inspector, Yerraguntla, made discreet enquiry over the land and submitted a report stating that the land under discussion is free from all encumbrances and it is a patta land as per re-settlement Register of Chilamkur village.

As per the R.S.R. of Chilamkur village, the survey No. 1220 comprising Acs:4-55 cents of land is classified as patta land. It stands in the name of Sri Chennam Pedda Bali Reddy and as per the adangal for the year 2010-2011, fasli 1420, the survey No.1220, extent Acs:4-55 cents was classified as patta land. It stands in the name of seven persons [the said adangal extract enclosed] and also as per I.B. Register, seven persons were issued with pattedar passbooks of which details annexed [I.B. extracts enclosed].

The attested related Xerox copies of 1) I.B.Register, R.S.R. and Adangal, are submitted herewith.

Under the above circumstances, it is confirmed that the survey No.1220 Extent Acs:4-55 cents of Chilamkur village is a patta land. It does not belong to Government. No objection certificate may kindly be issued to enable the applicant, Sri Buchupalle Ravindranath Reddy son of Pedda Subba Reddy of Chilamkur village to get it registered in the name of the present purchasers.”

7. Further in the check list prepared for verification of title, the following remarks is offered by the Tahsildar.

8. A perusal of the earliest documents and the recommendation of Tahsildar to Revenue Divisional Officer, Kadapa, prima facie show that the petition-land was

and is a private patta land. The prohibitory list is maintained by the Sub-Registrar basing upon the details furnished by the Revenue Department.

9. Considering the grievance of the petitioners in this background, the Revenue Department is admitting that the inclusion of petition-land in prohibitory list is erroneous and a mistake. Further the list of assigned land does not include survey No.1220. When the petition-land is treated as private patta land, the third respondent has no authority or jurisdiction firstly to call upon the petitioners to produce NOC or decline to process the document for registration unless NOC is produced. Reference to the instructions received by the learned Government is required for appreciation of the case, for the third respondent goes to the extent of asserting that even if deletion of a particular survey number is noted by the Revenue Department he is not under obligation to consider the same till the communication is routed through the Commissioner and Inspector General of Stamps and Registration. This court is unable to understand the objection of third respondent on this count. The list basing upon which the request of petitioners for registration is refused is also not placed before the court by the Sub-Registrar.

10. For all the above reasons, the refusal to receive and register the document presented for petition-land by third respondent is illegal and not justified by fact or law.

11. The writ petition is ordered by leaving it open to the petitioners to present the document for registration and upon such presentation, the third respondent shall consider the document for registration without reference to alleged

inclusion of petition-land in prohibitory list and takes up for registration in accordance with Registration and Stamps Act. No order as to costs.

3. As a sequel, Miscellaneous Petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT.

31/03/2015

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