

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION No. 700 OF 2015

ORDER:

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The petitioner prays for mandamus declaring endorsement dated 05.01.2005 of the fifth respondent in refusing to furnish market value for the land in an extent of Ac.2.99 in Sy.No.471-1B1 of Madakasira town and Mandal, Ananthapur District as illegal and unconstitutional. The petitioner prays for a direction to the respondents to issue the market value and consider for registration without reference to the rigour of Section 22-A of the Registration Act (for short 'the Act').

The case of the petitioner is that through registered sale deed dated 08.06.2005 he purchased the land in Sy.No.471-1B1 of Madakasira town and Mandal, Ananthapur District from one K.Krishtappa, S/o Kolatam Babanna. The petitioner is in possession and enjoyment of the property. The cause of action for filing the Writ Petition is that the petitioner intends to alienate for necessities the petition land to third parties. It is the case of the petitioner that through patta/Grant Proceedings No.75/37, dated 28.01.1938 the land was assigned in favour of one Ugrappa. It is his further case that ever since the sale by assignee the property has been subjected to a series of sale transactions by successors-in-interest. For the purpose of getting the sale registered, the petitioner approached the fifth respondent for issuing market value for the petition land. The request is refused through impugned endorsement. Hence Writ Petition.

Learned Counsel for the petitioner vehemently contends that the inclusion of Sy.No.471-1B1 in the list of assigned lands for refusing registration under Section 22-A of the Act is illegal, arbitrary and without jurisdiction. He further contends that to attract the provisions of Section 22-A of the Act, the *sine qua non* is that the assignment of land was with a definite condition of non-alienability. From series of the transactions already registered, it is contended that even as a matter of fact the rigour of Section 22-A of the Act is not attracted. The assignment since is prior to 1954, the non-alienability condition is not available to include the petition land in prohibitory list. The decisions of this Court on this point it is urged are categorical. Therefore the petitioner prays for a direction to issue market value and also direct the fifth respondent to register the sale deed.

Learned Assistant Government Pleader tried to persuade this Court that the moment the petitioner accepts the petition land as assigned land, the condition of non-alienability is automatically attracted and inclusion of this land in prohibited list is justified in the fact and law.

Perused the material available on record and considered the respective contentions.

Fourth respondent forwarded the list of assigned lands to the fifth respondent to prohibit registration under Section 22-A of the Act. From this the fourth respondent has referred to the order of assignment as 75/37, dated 28.01.1938. Considering the case on admitted facts or details, it is evident that the

petition land was assigned in favour of said Ugrappa on 28.01.1938. If the assignment is dated 28.01.1938, the burden rests on the respondents to *prima facie* satisfy that the assignment of the petition land is also with a condition of non-alienability. Unless and until the assignment was with such a condition the provisions of Act 9/1977 are not attracted. It is not evident whether such exercise has been undertaken or not by the respondents. The request of the petitioner for issuance of market value is fair and reasonable. The refusal of such request amounts to illegal exercise of jurisdiction by the fifth respondent. The Writ Petition is disposed of with the following directions:

1. Fifth respondent to issue market value to the petitioner for the land covered by Sy.No.471-1B1 in an extent of Ac.2.99 cents situated in Madakasira town and Mandal, Ananthapur District within a period of two weeks from the date of receipt of a copy of this order.
2. Petitioner is given four weeks' time from the date of this order to represent to the District Collector, Ananthapur to look into the assignment conditions covered by Proceedings No.75/37, dated 28.01.1938, examine the record and verify whether the assignment made at that point of time was with non-alienability condition or not and if the assignment was not with such a condition, second respondent is directed to issue appropriate orders deleting petition land from the list of prohibited (assigned) lands

circulated by the fourth respondent to the fifth respondent within a period of four weeks from the date of receipt of representation from the petitioner.

The Writ Petition is disposed of.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE S.V. BHATT

DATED 22ND JANUARY, 2015.
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