

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.29564 OF 2014

ORDER:

The subject matter of writ petition is an extent of Ac.9-92 cents in Sy.No.307 of Konduru Village, Lepakshi Mandal, Anantapur District.

The petitioners pray for Mandamus declaring the action of 4th respondent in not receiving and registering the document presented for registration in respect of the petition land, as illegal, contrary to the mandatory procedure under the Registration Act and unconstitutional.

The admitted circumstances of the case are as follows:

Through assignment No.DA.Dis.556/37, the petition land was assigned in favour of one Chinna Thimmanagari Chinna Thimmappa. The said assignment was free from any conditions, more particularly the condition of non-alienability incorporated under the Darkast assignment. The original assignee through registered document No.1089 dated 29.05.1933 sold the assigned land in favour of Galibipalli Kuraba Kotta Thimmanna, s/o Areppa. It is also admitted that from 1933 till the petitioners purchased in the year 1985, the petition land was subjected to a series of transactions. The petitioners attempted to sell the petition land to third parties. The 4th respondent admittedly on the instructions received from the 3rd respondent did not receive the document even for consideration of registration apparently on the ground that the petition land is an assigned land and included in the prohibitory list sent by the 3rd respondent. Hence, the writ petition.

The 3rd respondent filed counter affidavit on behalf of the 2nd respondent and for himself. The objections against the writ prayer are that the petition lands are very valuable, nearer to Bengaluru or international airport and the petitioners by exploiting the assignees purchased the lands from landless poor. The inclusion of petition land in prohibitory list of assigned lands is justified.

The purpose of registration of various transactions covered by Section 17 of the Registration Act is settled by authoritative pronouncements of this Court and the Apex Court. If the petition land is assigned with a condition of non-alienability, the prohibition to register the land can be traced to the provisions of the A.P. Assigned

Lands (Prohibition of Transfer) Act, 1977 or Section 22-A of the Registration Act. Considering the requirement under Act 9/77, the 2nd and 3rd respondents have authority to request the

4th respondent not to receive a document for registration if a particular survey number is assigned land.

From the admissions in pleadings of 2nd and 3rd respondents, it is evident that the assignment in favour of Chinna Thimmanagari Chinna Thimmappa was without any conditions and the earliest sale transaction was on 29.05.1933. The prohibition under Act 9/77 cannot be extended to the petition land and not available. Adverting to the prohibitions under Section 22-A of the Registration Act, there is hardly any material to accept the plea of respondents. The prohibition of a document from registration of a property has serious implications. To prohibit the Sub-Registrar from registering a document of immovable property, it shall be based upon conclusive material or records. The 2nd and 3rd respondents failed to discharge the burden in directing the 4th respondent from entertaining a document for registration.

For the above reasons, this Court is of the view that either the inclusion of petition land in prohibitory list or refusing to receive document for registration is illegal and arbitrary exercise of authority.

The writ petition is ordered by giving liberty to petitioners to approach the 4th respondent for registration. The 4th respondent shall register the same without reference to the inclusion of petition land in prohibitory list communicated by the 3rd respondent. There shall be no order as to costs.

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

S.V.BHATT, J

27th March, 2015

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