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THE HON'BLE SRI JUSTICE S.V. BHATT
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Writ Petition No.11876 of 2013

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ORDER:

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_____ The petitioners pray for *Mandamus* declaring the action of the 4th respondent in not entertaining the documents in respect of the land in an extent of 75 and 78 cents, in Sy.Nos.281/A and 281/2, respectively, at Gorantla Village and Mandal, Anantapur District, for registration, and raising objection under Section 22-A of the Registration Act, 1908 (for short 'the Act'), as illegal and unconstitutional.

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_____ The case of the petitioners is that the petition lands were assigned in favour of one Adigadu, vide assignment No.DAR Dis.No.1505/38, dated 30-12-1929. It is the case of the petitioners that the assignment was in favour of the person belonging to depressed class, the assignment did not contain a condition of non-alienability, the property has been treated as private patta land by the successors in interest, and the same has been subjected to a series of sale and purchase transactions. The inclusion of petition lands in the prohibitory list under Section 22-A of the Act is completely illegal, amounts to abrogating the proprietary right of the petitioners. The refusal to receive or register by respondents the document presented for petition land is arbitrary and without basis.

_____ The respondents filed counter-affidavit with bare details on the nature of land and also the year of assignment. The crucial aspect for consideration is, whether the assignment dated 30-12-1929 is with the condition of non-alienability or not.

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_____ This Court though order dated 05-02-2015 directed the District Collector, Anantapur, to file counter-affidavit and produce the records relating to the petition land, including the conditions, if any, imposed at the time of assignment. The District Collector, Anantapur/respondent No.1 filed counter-affidavit, without specifically adverting to the conditions of grant, in favour of Adigadu. The learned Government Pleader, on instructions, and after perusing the record, submits that the assignment is in favour of a person belonging to depressed community. There is no record to explain the conditions with which the grant is made in favour of the original assignee.

As the word “condition” is used in RSR, the petition land is included in prohibitory list, under Section 22-A of the Act. A Division Bench of this Court in **Nimmagadda Rama Devi and others v. The District Collector and another**^[1] considering the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 1977), the requirement of an assignment, and the condition of non-alienability held that the provisions of Act 9 of 1977 are applicable only if the grant was with the condition of non-alienability. Merely because the petition land was assigned land, the same does not attract the prohibition contained either under Act 9 of 1977, much less results in inclusion in the prohibitory list, under Section 22-A of the Act. The refusal to receive and register the document is not sustained by respondents.

_____ Having regard to these conclusions, the writ petition is ordered by directing the 4th respondent to receive and register the documents presented for petition lands, without reference to the inclusion of the petition lands in the prohibitory list, under Section 22-A of the Act.

_____ The writ petition is ordered as indicated above. There shall be no order as to costs.

Dt.06-03-2015.

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[\[1\]](#) 1996(4) ALT 325