

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.2001 OF 2015

ORDER:

Heard learned counsel for the petitioner and the Government Pleader.

3rd respondent/Tahsildar, Anantapur Mandal and District filed the counter affidavit.

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

The petitioner prays for Mandamus declaring the action of 4th respondent in not receiving the document for the land covered by Survey No.164-2A1A to an extent of Ac. 0.93 cents at Kakkalapalli Village, Anantapur Rural Mandal, Anantapur District on the ground that the land is assigned land and the petitioner is to produce 'No Objection Certificate' (NOC) issued by the Revenue Department, as illegal, contrary to the Registration Act, 1908 (for short 'the Act') and unconstitutional.

The case of the petitioner is that petition land was assigned in favour of one Talari Rajappa s/o. Lakshmana in DAR/Dis.No.1638/60 dated 15.06.1951. The assignment is prior to G.O.Ms.No.1142 dated 18.06.1954. Firstly, the condition of non-alienability is not included in the grant and secondly, the condition of non-alienability for 10 years expired long ago. As matter of fact, there have been a series of transactions for the petition land from 1954 onwards. The insistence of 4th respondent to produce NOC is illegal without jurisdiction and unconstitutional. The petitioner prays for a

direction to 4th respondent to receive the document presented for registration, consider the same without reference to NOC. The petitioner relies upon the direction issued by this Court in W.P.No.5499 of 2011 for the land in Survey No.164-2 in an extent of Ac.3.16 cents in support of his case that the petition land is not Government land and not covered by any of the situations stated in Section 22-A of the Act. Hence, the writ petition.

The 3rd respondent substantially admits the case pleaded by the petitioner. The admissions are (i) date of assignment, (ii) the conditions of assignment and (iii) execution of several sale deeds for the subject survey number. The reply of respondents, it appears from the tenor of counter affidavit of 3rd respondent, is that the petitioner without approaching the revenue authorities for redressal has straightaway filed the writ petition and the same is not maintainable and liable to be dismissed.

Perused the material available on record and the case of petitioner and the respondents. Noted the contentions urged by the respective counsel. The circumstances leading to the filing of writ petition are not re-stated as there is hardly a dispute or issue between the parties. It is not disputed that the 4th respondent insisted upon production of NOC on the ground that the petition land is included in the prohibitory list. Now, the counter affidavit discloses that the assignment was on 15.06.1951 and the petition land has been subject matter of several sale transactions. Firstly, there is no legal authority to insist upon obtaining NOC from the Revenue Department for Survey No.164/2A1A and secondly, the petition land cannot be treated as coming under any of the categories of land covered by Section 22-A of

the Act. I have taken note of the order of this Court in W.P.No.5499 of 2011. The writ petition is ordered by directing 4th respondent to entertain the document presented by petitioner for the property covered by Survey No.164/2A1A of Kakkalapalli Village, Anantapur Rural Mandal, Anantapur District, process the same for registration without reference to NOC and pass appropriate orders in accordance with law. No order as to costs.

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

S.V.BHATT, J

Date:02.03.2015

Stp