HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.Nos.16026, 16029, 16030 and 16062 of 2015

COMMON ORDER:

Heard.

Since the issue raised in these writ petitions is common, they are being disposed of by this common order.

All these writ petitions are filed by the respective purchasers aggrieved by the action of the 4th respondent in refusing to receive the documents and register the sale deeds presented by them for registration. Each one of the petitioners presented sale deeds in their favour on 13-05-2015 and by identical refusal orders dated 02-06-2012, the registration of the sale deeds was refused by the 4th respondent.

The sale deeds executed in favour of the petitioners contain the following recitals at the beginning:-

> "Whereas the party of the first part is the absolute owner of the schedule property morefully described in the schedule hereunder and in possession and enjoyment as mutations also effected in Revenue records in pursuance of the proceedings of the Joint Collector, Chittoor in S.R.No.F6/11/11(a)/77, dated 31-07-2014 duly issuing pattadar passbook under Patta No.255, Khata No.10926E007000007, adangal/pahani and proceedings of Tahsildar, Tirupati Rural Mandal in R.Dis.A/A/494/85, dated 23-08-2014."

The reasons for refusal mentioned in the impugned orders are extracted hereunder:-

> This document purported to be a sale executed by one Smt.V.Sudharsanamma, W/o.V.Lakshmana Reddy of Tirupati in favour of Sri V.O.Venugopal Reddy, S/o.V.O.Krishna Reddy alienating an extent of Ac.0-51 cents in Sy.No.88/1 part and Ac.0-52 cents in Sy.No.89 part with well there on of Gollapalle Village Accounts of Tirupati Rural Mandal bounded on the
> East by : the land in Sy.No.89 part
> West by : the land sold out in S.No.88/1 part to V.O.Venugopal

Reddy on this day;
North by : Ramanujapalli village land limits; and
South by : Road
Stamp Duty and Registration for a Market Value of Rs.8,24,000 has been paid. Document has been kept pending and assigned pending document No.19 of 2015 for scrutiny.

On verification of this office records it is noticed that the Tahsildar Tirupati Rural Mandal in Lr.No.A/291/2012, dt:24/3/2012 Communicated to Sub-Registrar chandragiri that the land in Sy.No.88 extent Ac.2.24 cents and Sy.No.89 extent Ac.1-55 cents of Gollapalle village Accounts of Tirupati Rural Mandal are government lands classified as 'Road' and therefore Registration of government lands are prohibited as per Section 22 A(1)(b) of Registration Act, 1908. The District Registrar Sri Balaji Registration District Tirupati while enclosing the District Collector Chittoor Do.Lr.No.Roc F1/134/2015, dt.13-5-2015 vide Memo No.G/885/2015, dt.22/5/2015 directed the Sub-Registrars to take necessary action as per the provisions of Section 22-A of the Registration Act, 1908, whenever documents affecting the said lands are presented for Registration. The lands in Sy.Nos.88, 89, 91 of Gollapalle Village, total extent Ac.4.09 cents are included in the said Do letter.

In view of the above said reasons, I hereby refuse the Registration of land in sy.No.88/1 part extent Ac.0-51 cents in Sy.No.89 part extent Ac.0-52 cents of Gollapalle Village Accounts of Tirupati Rural Mandal under Section 22 A (1) (b) of the Registration Act, 1908."

It is evident from the above that the orders of refusals are passed based on the letter of the Tahsildar, Tirupati Rural Mandal, dated 24-03-2012 on the ground that the lands admeasuring Ac.2-24 cents in Sy.No.88 and Ac.1-55 cents in Sy.No.89 are Government lands and classified as 'Road' and prohibited from registration under Section 22-A (1) (b) of the Registration Act, 1908 (for short 'the Act').

The petitioners while questioning the said refusal orders contend that their vendor was, in fact, granted patta by the Settlement Officer-cum-Joint Collector, Chittoor, on 31-07-2014 and the same was implemented by the Tahsildar on 23-08-2014 and, accordingly, the petitioners' vendor was issued pattadar pass book on 27-01-2015. In view of said grant of patta in favour of their vendor and entry in the revenue record, the petitioners stated to have purchased respective portions from their vendor, which is the subject matter of each of the sale deeds, for which each of the petitioner has paid requisite stamp duty and registration fee to the credit of the 4th respondent on 13-05-2015 itself. The refusal endorsements are, therefore, questioned primarily on the ground that the letter of the Tahsildar, dated 24-03-2012 relied on by the 4th respondent has no value in view of patta granted to the vendor of the petitioners by the Joint Collector-cum-Settlement Officer, Chittoor, for the very same land on 31-07-2014. It is also stated that while granting said patta, the Joint Collector-cum-Settlement Officer, Chittoor, has taken into consideration the area covered by road and has granted patta only to the extent of Ac.4-09 cents, as against the total extent for which the patta was sought for. Thus, the 4th respondent has not taken into consideration the subsequent event of grant of patta in favour of the petitioners' vendor and implementation thereof in the revenue records and issuance of pattadar pass books to the petitioners' vendor.

Learned Senior counsel for the petitioners, therefore, submits that grant of patta in favour of the petitioners' vendor and its implementation in the revenue records by the revenue authorities themselves would clearly show that the grounds as contemplated under Section 22 A (1) (b) of the Act does not any more subsist and the land cannot be treated as land vested with the Government and, in fact, it is a patta land of the vendor of the petitioners.

The second contention is that the Collector has also issued a letter to the District Registrar, Chittoor, on 13-05-2015 informing him not to entertain any registrations on the basis of pattas granted in favour of various claimants, including the vendor of the petitioners, on the ground that the Government intends to contest the said order before appropriate forum and as such not to entertain any registration as the lands are Government lands having house site potentiality. The said letter was acted upon by the District Registrar by issuing Memo dated 22-05-2015 to all the Sub-Registrars in the District and that is also one of the reasons mentioned by the 4th respondent while giving refusal endorsements, as is evident form the extract above.

Learned Senior Counsel, therefore, submits that the Registrar should not take into cognizance of such a letter of the District Collector as any authority cannot disable the Registrar from registering the documents merely on the basis of the said letter.

Learned Senior counsel also points out that the very fact of the District Collector mentioning that the said lands have house site potentiality falsifies the claim of the respondents that the lands are road poramboke. Learned Senior counsel also states that even if the respondents have preferred any appeal or revision against the order of the Settlement Officer-cum-Joint Collector, the petitioners are willing to take the risk and the registration done in their favour shall be subject to the appropriate orders that would be passed by such appellate or revisional authority.

Learned Government Pleader, on the other hand, has filed a detailed counter and submits that the aforesaid lands are already classified as road poramboke and hence, registration of the above land was rightly covered under the provisions of 22-A (1) (b) of the Registration Act. He, therefore, submits that erroneous grant of patta by the Joint Collector in favour of the vendor of the petitioners cannot be taken into consideration, especially when the Government has already taken steps and has filed revision before the Special Commissioner & Director of Settlements, Andhra Pradesh, Hyderabad, in R.P.No.E1/1311/2015 and the said revision is pending adjudication before the said revisional authority.

Learned Government Pleader also contend that the patta granted by the Settlement Officer, on the face of it, is unsustainable and contrary to the record and not only in the present case but in several other cases also, the Settlement Officer is stated to have granted pattas and the Government has now questioned each of such orders before the appropriate forum. He also points that the letter of the District Collector, dated 13-05-2015 mentions all such cases in the letter addressed to the Registrar, which includes the lands in question shown at Sl.No.2 of the said letter covering Ac.4-09 cents of Gollapalle village of Tirupati Rural Mandal.

It may be true that the Government has questioned the order of the Settlement Officer before the revisional authority and the said revision petition may be pending adjudication before such authority. However, mere filing of the revision would not interdict the order of grant of patta. It is not disputed and, in fact, admitted in the counter affidavit that patta granted in favour of the petitioners' vendor was also implemented in the revenue records. However, the dispute relating to the said land is now stated to be pending further adjudication before the revisional authority. Even accepting that the said grant of patta is subjudice before revisional authority, in my view grant of patta in favour of the petitioners vendor and its implementation in the revenue record equates the petitioners vendor to that of the holder of the land and she has right to enjoy the land in all respects and she is entitled to deal with the said property as she deems appropriate. The said vendor assures to alienate the said land in favour of the petitioners in different parts and that is how four sale deeds were presented for registration by specifically mentioning in the sale deeds that patta was granted by the Settlement Officer and the same was implemented in the revenue record as well. Consequently, even if the respondents succeed in the revision petition and the order granting patta by the Settlement Officer is set aside, the petitioners vendor as well as the petitioners will be bound by the said orders and will not be entitled to any equities, as during hearing of the writ petition itself it was categorically accepted by the petitioners that they are taking risk and subject to the orders that may be passed by the revisional authority. Further, it is well settled that mere registration of document by the Registrar does not confer title and consequently that by mere registration if the Government has a pre-existing title, the same is not in any way affected by a transaction between two individuals, which is registered by Registrar. Mere registration, therefore, would not affect the title of the respondent Government and that if they establish their entitlement in appropriate proceedings, mere registration of the document in favour of the petitioners, which is subject matter of the present writ petition, would not by itself defeat the claim of the Government.

In view of the discussion above, it is clear that the refusal endorsements are passed on the basis of the earlier letters of the Tahsildar without taking into consideration the subsequent pattas granted in favour of the vendor of the petitioners and that the same was implemented in the revenue record and as on today, the claim of the Government is yet to be adjudicated and settled since the revision is still pending before the revisional authority.

In view of that, the writ petitions are allowed. The petitioners shall re-present the documents for registration and since the stamp duty and other registration fee etc., are already paid by each of the petitioners on 13-05-2015 itself, the 4th respondent will examine the documents with respect to compliance under the Stamp Act and Registration Act and if satisfied, process and register the documents. It is made clear that the registration of the sale deeds ordered hereunder shall be at the risk of the petitioners and shall not in any affect the title of the respondents and shall be subject to further orders that may be passed by the revisional authority in the pending revision. It is also clarified that after the impugned refusal endorsements, if the Registrar has returned the documents to the respective petitioners, they are directed to re-present the same before the Registrar. No costs.

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

VILAS V.AFZULPURKAR, J

Date: 01-07-2015
Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.Nos.16026, 16029, 16030 and 16062 of 2015

01-07-2015

Prv