

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 25987 of 2012

ORDER :

Non-issuance of “no objection certificate” in respect of land admeasuring Ac.0.54 cents in Sy.No.535/2 of Gurramkonda Village, Madanapalli Mandal, Chittoor District, for establishment of retail outlet of Hindustan Petroleum Corporation is subject matter of dispute in the present writ petition.

The factual matrix of the case is as under:

A notification came to be issued by the fourth respondent inviting applications for a retail outlet of its Corporation. Pursuant thereto, the petitioner applied for the same and after the interview he was found to be eligible for grant of a retail outlet dealership. However, the fourth respondent authorities directed the petitioner to obtain “No Objection Certificate” from the third respondent in respect of the land declared by him for establishing the outlet. Accordingly, the petitioner made an application on 21.03.2012 before the third respondent for issuance of “No Objection Certificate” in respect of the above land, which was registered in his favour on 10.10.2011. The said application was rejected on the ground that the land admeasuring Ac.4.04 cents in Sy.No.535/2 was classified as “Dotted Land” as per A-Register of Gurramkonda Village. Challenging the same the present writ petition came to be filed.

A counter came to be filed by respondent Nos.1 to 3 stating that the petitioner is not entitled for issuance of “No Objection Certificate” as the land is classified as “dotted Land” and there are no entries showing grant of pattas or transfer to any one basing on the entries made in 10(1) Account of Gurramkonda Village. It is admitted that as per 10 (1) Account, the land was assigned in favour of one Thutukuri Venkatappa and others vide patta No.315 of Gurramkonda Village. It is also stated that as per the Adangal/ Pahani, five persons namely T.Reddemma, Nallagutta Subbakka, Veerla Venkataswamy, T.Venkatappa and T.Ramana are the occupants of the said land. It is thus contended that the land being classified as “dotted land”, assignment to landless poor or alienation of the same is impermissible.

Respondent No.4 filed counter disputing the allegations made in the affidavit filed in support of the writ petition, but however admits that the petitioner secured highest marks in the interview conducted by the selection committee of the fourth respondent Corporation.

Learned counsel for the petitioner mainly contended that the petitioner has purchased land from his vendors, who inherited the same from their grandfather by name Thutukuri Venkatappa, who was granted patta prior to 1958. In the absence of any non-alienable clause in the land assigned prior to 1958 he submits that alienation of land cannot be a ground to reject the No objection Certificate. He further submits that even as per the averments in the counter, patta No.315 was granted in favour of Thutukuri Venkatappa, who is none other than the grand father of the vendors of the petitioner. He further submits that RH (Record House) copy which was obtained from the office of Sub-Registrar, Vayalpadu, show that the deceased Thutukuri Venkatappa mortgaged the land admeasuring Ac.4.04 cents in Sy.No.535/2 in the year 1953 itself for obtaining agriculture loan which indicate that the land was assigned prior to 1953. Since the land was purchased by the petitioner through registered sale deeds, dated 10.10.2011, he submits that the action of the third respondent in rejecting the request is illegal and improper.

The Government Pleader for Revenue while reiterating the objections raised in the counter stated that the petitioner is not entitled for any relief.

In ***P.Suresh v. Andhra Pradesh State and others*** this Court has considered the issue as to whether refusal of registration only on the basis of the entry in the Re-settlement Register to the effect that the land belongs to the Government is sustainable? This Court has answered the question in negative by observing that the land cannot be treated as belonging to the Government on the basis of entry made in R.S.R.

In ***Shaik Ali v. District Collector, Chittoor*** a learned Single Judge of this Court, after referring to the earlier case law, held that mere entries in the R.S.R. do not constitute conclusive proof of title.

In ***Raavi Satish v. State of Andhra Pradesh*** this Court held as under:

“In order to see that the litigation of this nature is curbed once and for all, I

feel it not only appropriate, but also imperative to issue the following directions, which shall be of general application throughout the State of Andhra Pradesh and govern all transactions of registration, to take place in future:

(A) The Registering officers shall not insist on production of NOCs as a condition for receiving the documents for registration.

(B) The Registering officers shall not refuse to receive the documents for registration only on the ground that the properties were included in the prohibitory lists sent by the Revenue authorities, for reasons such as that the ownership column of the RSR contains dots, or that the lands are shown as AWD lands in the Revenue Records or that the lands are assigned lands.

(C) In cases of entries in RSRs containing “dots” or describing the lands as “AWD”, unless a notification has been issued under [Section 22-A\(2\)](#) of the Act, the Registering officers shall not refuse to receive and register the documents. The registration of such documents, however, shall be without prejudice to the right of the Government and its functionaries to initiate appropriate proceedings for recovery of possession of the properties covered by such documents, if in their opinion they belong to the Government.”

In ***Shyam Sunder v. Government of Andhra Pradesh*** this Court had also an occasion to consider whether transfer of land is hit by the provisions of Act 9 of 1977. Considering the Division Bench Judgment of this Court in ***K.Narayanaswami Naidu V. State of Andhra Pradesh*** a learned Single Judge of this Court held that in case of assignment coupled with a condition of non-alienability, it is open for the authorities to invoke the provisions of Section 3 of the Act and declare such sales as void and consequently resume the lands. However, in case where there is no such condition, it has to be considered whether still it will be open for the authorities to take action under Section 3 of the Act. The Court held that such an action would be illegal.

Similar view was taken by a Bench of this Court in ***Joint Collector, Rangareddy District and others Vs. P. Harinath Reddy and others***. Therefore, the question that falls for consideration is whether the prohibition under Section 3 of the Act comes in the way of third respondent issuing the “No Objection Certificate”?

The record *prima-facie* spells out that the land was assigned in favour of Thutukuri Venkatappa some time prior to 1953 vide Patta No.315 as per 10 (1) account of Gurramkonda Village. The petitioner herein purchased the said land

by way of two registered sale deeds dated 10.10.2011 from the grandsons of Thutukuri Venkatappa, who were in possession of the property. Even as per the counter filed by respondent Nos.1 to 3, the representation dated 18.04.2012 made under the Right to Information Act, 2005, seeking a copy of DKT number was processed and the proceedings dated 07.05.2012 came to be issued informing that the land was originally classified as “dotted land”, but however patta No.315 was granted in favour of Thutukuri Venkatappa. Even the R.H. copy obtained from the office of Sub-Registrar, Vayalpadu, discloses that the deceased Thutukuri Venkatappa, mortgaged land admeasuring Ac.4.04 cents in the year 1953 at the time of obtaining agriculture loan and it further shows that the land in Sy.No.535/2 was assigned prior to 1953. Though the Government Pleader for Revenue took time to verify the same, but in spite of giving number of opportunities, he could not get proper instructions in this regard. Further, a true copy of 10 (1) account maintained by V.R.O. clearly demonstrates that the land referred to above was assigned in favour of Thutukuri Venkatappa and the said land was in enjoyment of his legal representatives namely T.Venkataramana and T.Reddy Sekhar. As referred to above, the petitioner purchased land admeasuring Ac.0.54 cents from out of land admeasuring Ac.4.04 cents from the legal representatives of Thutukuri Venkatappa. Since the counter is silent as to when the land was assigned and as the RH Register issued by the Sub-Registrar, Vayalpadu and 10 (1) account maintained by the V.R.O. clearly demonstrate assignment prior to 1953, which do not contain non-alienable clause, the action of the third respondent in not issuing the “No Objection Certificate” appears to be illegal and incorrect. This Court has time and again held that mere entries in R.S.R. do not constitute conclusive proof of ownership of the land, more so when the owner column is shown as “dots” or describing the lands as “AWD”.

Though the Government Pleader for Revenue tried to contend that the name of the petitioner is not found in the revenue records like 10 (1), Adangal and R.S.R., but as held by this Court in ***Raavi Satish (3 supra)*** and ***Shaik Ali case (2 supra)*** mere entries in the RSR or A-Register, more so when show as ‘dots’ do not constitute conclusive proof of title over the property. On the otherhand, the documents filed by the petitioner *prima facie* establish that the land was assigned to the grandfather of the vendors of the petitioner much prior

to 1953.

For the above mentioned reasons, the writ petition is allowed and the third respondent is directed to issue "No objection Certificate" in respect of land admeasuring Ac.0.54 cents in Sy.No.535/2 of Gurramkonda Village, Madanapalli Mandal, Chittoor District, leaving it open to the respondents to assert their title before the competent civil Court, if there is material available with them to show that it is a government land and was assigned to Thutukuri Venkatappa after 1958 with a non-alienable clause. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

17.11.2015

gkv

