

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.24638 OF 2014

ORDER:

Heard learned counsel for the petitioner and the Government Pleader.

The petitioner prays for Mandamus declaring the action of 4th respondent in not registering Plot No.16 measuring 2422 square metres in Survey No.12 at Vijayarampuram Village, APIIC, IAIA, Vizianagaram, as illegal, arbitrary and contrary to the provisions of the Registration Act,1908 (for short 'the Act').

The petitioner filed O.S. No.52 of 2011 for specific performance of agreement of sale dated 01.12.2006 executed by one Sarath Seth s/o.Surendranath Seth. On 25.06.2012, O.S. No.52 of 2011 was decreed by the learned Senior Civil Judge, Bobbili. The decree in O.S. No.52 of 2011 is put to execution in E.P. No.80 of 2012 in the Court of Senior Civil Judge, Bobbili. The case of petitioner is that the formalities for execution of sale deed by the Court are complied with and 4th respondent through letter dated 25.06.2014 has informed the learned Senior Civil Judge that the document presented in E.P. No.80 of 2012 cannot be registered, for the same is included in the prohibitory list maintained by the department under Section 22-A of the Act. The basis appears to be that prior to acquisition of subject plot by APIIC, Survey No.12 was an assigned land. The case of petitioner is that APIIC is the owner of subject property, it is an industrial area covered by Survey No.12 and APIIC has sold in favour of Sarath Seth, and the prohibition contained in Section 22-A of the Act has no application. Hence, the writ petition.

The 4th and 5th respondents have filed counter affidavits.

I consider the stand taken by the Tahsildar, Bobbili Mandal/5th respondent herein. The 5th respondent admits that steps are already taken up for exclusion/de-notification of Survey No.12 from the list of prohibitory lands under Section 22-A of the Act.

The 5th respondent avers that on 18.04.2014, 20.04.2014 and upon verification of lands held by APIIC has informed the 4th respondent to take necessary steps in this behalf. The 5th respondent categorically states that there is no restriction or prohibition for registration of plot covered by Survey Nos.12/1A, 1B, 2, 3, 4 and 5 of Vijayarampuram Village. From the reply of 5th respondent, it is clear that the mistake of fact which crept in inclusion of Survey No.12 is still continued by the 4th respondent and on account of such continuance the sale deed presented for registration in E.P. No.80 of 2012 is not considered. The 4th respondent himself cannot decide the lands which are to be included in prohibitory list or to be excluded from the prohibitory list. The inclusion or exclusion from a bare reading of Section 22-A of the Act is only at the instance of Endowment, Wakf, State or Central Governments etc. In the case on hand, the revenue department categorically states that the inclusion of Survey No.12 with sub-divisions referred to above is a mistake of fact. Hence, this Court is of the view that the reason for refusing to register the document is unsustainable. The writ petition is ordered by directing the 4th respondent to consider registration of document presented in execution of E.P. No.80 of 2012 if the document is otherwise complaint without reference to communication from the revenue department and complete the process within a period of two weeks from the date of receipt of a copy of this order. No order as to costs.

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

S.V.BHATT, J

Date:22.04.2015

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