

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.8897 OF 2015

ORDER:

Heard learned counsel for the petitioner and the Government Pleader.

The petitioner prays for Mandamus declaring the action of 2nd respondent in refusing to receive and register document for the property in an extent of Ac.1-66 cents in Survey No.65 of Maddimattinagudem Village, Chintalapudi Mandal, West Godavari District on the ground that the land in Survey No.65 is Government land, as illegal, arbitrary and unconstitutional.

The case of petitioner is that the petition land has been treated as private pattta land for several decades. The petitioner relies upon the entries in RSR to show that the petition land was shown as patta property in favour of Muchhanapalli Gurlingam and Paritala Chinapullaiah. The title deed number referred to in R.S.R. is 173. The petitioner relies upon the report/communication of Tahsildar, Chintalapudi Mandal addressed to the Revenue Divisional Officer, Eluru. The report reads as follows:

“Sri Kondreddi Venkata Krishnarao S/o.Viswanatham, R/o. Maddimattinagudem Village, the land in R.S.No.65 admeasuring Ac.1.66 cents of Maddimattinagudem, the Revenue Divisional Officer, Eluru ordered the Tahasildar, Chintalapudi to conduct enquiry in.

The Mandal revenue inspector and the Surveyor conducted the enquiry and submitted the report stating that the land admeasuring Ac.1-66 cents in R.S.No.65 of Maddimattinagudem Village belongs to Sri Kondreddi Venkata Krishnarao S/o. Viswanatham of Maddimattinagudem Village and the same is recorded as private dry land and the same is not assessed waste land /Poramboku and the land is in the occupation of K.V.Krishna rao, cultivating palmoil, coconut and corn crops in the land.

Therefore it is submitting that the land in RS.No.65 admeasuring Ac.1.66 cents is recorded as private dry land.

The copy of RSR, report of Mandal Revenue Inspector is enclosed herewith along with this report and submitted to you for further action in this regard.”

Section 22-A of the Registration Act (for short ‘the Act’) reads as follows:

"22-A. Prohibition of Registration of certain documents:-- (1) The following

classes of documents shall be prohibited from registration, namely:--

(a) documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government;

(b) documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease in respect of immovable property owned by the State or Central Government, executed by persons other than those statutorily empowered to do so;

(c) documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease exceeding (ten) 10 years in respect of immovable property, owned by Religious and Charitable Endowments falling under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 or by Wakfs falling under the Wakfs Act, 1995 executed by persons other than those statutorily empowered to do so;

(d) Agricultural or urban lands declared as surplus under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 or the Urban Land(Ceiling and Regulation) Act, 1976;

(e) Any documents or class of documents pertaining to the properties the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational,Cultural, Religious and Charitable Institutions, those attached by Civil, Criminal, Revenue Courts and Direct and Indirect Tax Laws and others which are likely to adversely affect these interest.

(2) For the purpose of clause (e) of sub-section (1), the State Government shall publish a notification after obtaining reasons for and full description of properties furnished by the District Collectors concerned in the manner as may be prescribed.

(3) Notwithstanding anything contained in this Act, the registering officer shall refuse to register any document to which a notification issued under clause (e) of sub-section (1).

(4) The State Government either suo motu or on an application by any person or for giving effect to the final orders of the High Court of Andhra Pradesh or Supreme Court of India may proceed to denotify, either in full or in part, the notification issued under sub-section (2)."

The learned Government Pleader, on instructions, admits the despatch of communication/report dated 05.12.2014 by Tahildar, Chintalapudi Mandal to Revenue Divisional Officer, Eluru. In spite of the report dated 05.12.2014 the objection of the learned Government Pleader for registration is that the procedure in vogue is to forward the said report through District Collector to the Commissioner of Stamps and Registration and who in turn will issue appropriate proceedings to the concerned Sub Registrar for deletion of these survey numbers from prohibitory list and thereafter registration is permissible. The objection *prima facie* is untenable and

not fitting into the prohibition envisaged under Section 22-A of the Act. Admittedly the inclusion of petition land in the prohibitory list appears to be on account of mistake of fact. The admitted mistake of fact in the offices of the 3rd respondent or for that matter the Revenue Divisional Officer, the petitioner cannot be expected to wait till other formalities are completed by the District Collector or Commissioner of Stamps and Registration to present his document for registration. The objection of respondents is untenable and does not fit into the scheme of Section 22-A of the Act. The refusal to receive the document for registration is unauthorised and illegal.

Having regard to the facts and circumstances of the case, more particularly, the report of the Tahsildar dated 05.12.2014, the petitioner is given liberty to present the document for registration for survey No.65 in an extent of Ac.1-66 cents before the 2nd respondent and the 2nd respondent is directed to receive the document, process the same for registration without reference to inclusion of the petition land in the prohibitory list maintained by the 2nd respondent.

The writ petition is ordered as indicated above. No order as to costs.

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

S.V.BHATT, J

Date:01.04.2015

Stp