

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**MONDAY THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIFTEEN**

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 16156 OF 2014

Between:

Avula Shafiullah ... Petitioner

V/s.

The Govt. of Andhra Pradesh

Represented by its Prl.Secretary

Revenue Department,[Stamps &Registration]

Secretariat,

Hyderabad & Ors. ... Respondents

Counsel for the Petitioner : Sri Ganduri Nageswara Rao

Counsel for the Respondents : GP for Revenue [AP]

The court made the following : [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

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WRIT PETITION NO. 16156 OF 2014

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ORDER:

The petitioner prays for mandamus, declaring the order of fourth respondent dated 13/05/2014 in P.No. 12/2014 as illegal, arbitrary and unconstitutional.

2. The petitioner prays for a consequential direction to the fourth respondent to register and release P.No. 12/2014.

3. The subject matter of the writ petition is an extent of Ac:2-81 cents in survey No. 237 of Velamakur village, Tadipatri Mandal, Ananthapuram district.

4. The case of the petitioner is that the petition land is a private patta land. The

petition land as per register of holdings is recorded in the name of Vempalli Pedda Munnaiah, V.Rama Muni Reddy grandson of Vempalli Pedda Munniah has sold the property and the vendor of the petitioner is the successor-in-interest of the vendee from V. Rama Muni Reddy. On 07/04/2014 the petitioner along with his vendor presented the subject document for registration before fourth respondent. The fourth respondent issued the impugned endorsement dated 07/04/2014 which reads as follows:

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1. No.3	Stamp	Date of Document	Date and Honour of Presentation
of 2014	Rs.10,835/-	07/04/2014	07/04/2014
P.No.12 of 2014		Reasons for Refusal	
(2) Name and addition of the presentantSri V.Ramamuni Reddy,s/oV.Bali Reddy, Choutipalle (v) R.S.Kondapuram (M) Kadapa district		The document purporting to be a sale deed for a consideration of Rs.1,97,000/- executed by Sri V.Ramamuni Reddy s/o. V.Bali Reddy in favour of Avula Shafiulloa s/o A. Mahaboob Basha on 07/4/2014 and presented on 07/04/2014 for Registration. The scheduled property pertaining to survey No. 237 of Velamakur village, Tadipatri Mandal Ananthapur district. As per the list of prohibited properties communicated by Revenue authorities the said land 2-81 acres in survey No. 237 of Velamakur village is a Government land. The Registration of Government lands are prohibited under section 22-A (1) (b) of the Registration Act, 1908 (as amended Act 19/2007) Therefore, the document is refused for registration. Date:13/05/2014 Sd/- P. THAYANNA Sub-Registrar Tadipatri	

(3) Name and additions of ExecutantSri V. Ramamuni Reddy s/o V.Bali Reddy Choutipalle (v) R.S.Kondapuram (M) Kadapa district
(4) Name and additions of persons examined -Nil-
(5) Abstract of document together with the name of all claimants and all attesting witnesses Sale deed for Rs.1,97,000/- executed by Sri V.Ramamuni Reddy s/o V.Bali Reddy in favour of Avula Shafiulla s/o A.Mahaboob Basha property pertaining to the document and Ac:2-81 in the survey No. 237 of Velamakur village Tadipatri (M) Ananthapur district. Name of the claimant: 1. Avula Shafiulla Name of the Attestors: 1. V.Ramamuni Reddy
Sd/-P. THAYANNA :SR

Note: An Appeal against to the present refusal order lies to the District Registrar, Ananthapur within 30 days from the date of refusal.

(True copy)

Sd/-

Total No.of corrections: Nil Sub-Registrar

Copy prepared by

Document compared Reader

by: Examiner Tadipatri

Hence, the writ petition.

5. The case of petitioner is that the petition land cannot be treated as land prohibited for registration under section 22-A of the Registration Act. The petition land is shown as private patta land in register of holdings maintained prior to 1954. The burden is

very heavy on respondents to justify the inclusion of the petition land in prohibitory list maintained under section 22-A of the Act. According to petitioner, the petition land is not an assigned land muchless assignment with the condition of non-alienability. In the absence of any of the circumstances covered by section 22-A of Registration Act attracting issuance of refusal endorsement is illegal, unauthorised, arbitrary and unconstitutional.

6. The third respondent/Tahsildar filed counter-affidavit for himself and on behalf of other respondents. The respondent admits inclusion of petition land in the prohibitory list. According to respondent, the petition land is classified as Government Dry [Banjar] in survey and re-settlement register ['A' Register] of the said village. The fourth respondent admits that the office of fourth respondent does not have details of assignment of petition land to any person muchless the person whose name is recorded in the register of holdings. The reasons stated for inclusion of petition land in the prohibitory list are that the petition land is classified as Banjar in R.S.R. and such land is treated as Government land.

7 . From the above undisputed facts and circumstances, the short point for consideration is whether the refusal endorsement dated 07/4/2014 is justified in fact and law.

8. As noted above, to compel fourth respondent to prohibit registration of a document, the third respondent must satisfy that the petition land comes in one category or other under section 22-A of the Registration Act. Admittedly, the petition land is not an assigned land muchless assignment with the condition of non-alienability. By virtue of the above admission, the application of Act 9 of 1977 does

not arise. It is not the case of respondents that the petition land belongs to Endowments, Wakf etc as covered by section 22-A of Registration Act. No avowed interest of Government in the petition land is claimed. Even the respondents claim avowed interest in petition land to prohibit registration a notification under section 22-A of the Registration Act is mandatory. As no notification is issued under section 22-A sub-clause 2 of Registration Act, the respondents admit that there is no record to show that the petition land is assigned land and at the same time on the basis of entries in the RSR firstly include the land in the prohibitory list and secondly the fourth respondent cannot refuse to register the subject document on the basis of such information. In other words, the inclusion in prohibitory list is without basis or record. If the inclusion is accepted the same amounts to deprivations of proprietary right without following procedure stipulated by law. Hence, the refusal endorsement is illegal, untenable and accordingly set aside.

9. The writ petition is ordered by directing the Sub-Registrar, Tadipatri/4th respondent to complete the process of registration and return the document to the petitioner without reference to inclusion of petition land in prohibitory list, provided the subject document is compliant as regards other requirements of Registration Act and Stamp duty. No order as to costs.

10. As a sequel, Miscellaneous Petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT.

13/04/2015

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HONOURABLE SRI JUSTICE S.V. BHATT

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