

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.2215 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 not issuing 'No Objection Certificate' (NOC) to petitioner to sell the land admeasuring Ac.01.83 ½ cents out of total extent of Ac.07.34cents in Survey No.989 situated at Rayachoty Village and Mandal, YSR Kadapa District, as illegal, contrary to law and unconstitutional. The petitioner prays for a consequential relief as well against the respondents to issue NOC to the petitioner.

The subject matter of the writ petition is Ac.1.83 ½ cents in Survey No.989 at Rayachoty Village. The case of petitioner is that the subject matter of the writ petition is registered as private patta land in revenue records. Survey No.989 firstly is not an assigned land and secondly not a grant with the condition of non-alienability. The petitioner relies upon the following proceedings and documents to claim right and title in Survey No.989.

Proceedings 239 AW of 1337 Fasli in the year 1927

Document No.2046 of 1938 dated 28.07.1938

Document No.1447 of 1954, dated 07.08.1954

Document No.2377, dated 07.08.1965

Document No.4416, dated 20.12.1973

Document No.3750 dated 14.08.1981

Document No.2534 dated 16.04.2012

Document No.7708 dated 17.12.2012

The petitioner further contends that NOC from the respondents for registration

of subject matter is not required and alternatively when the petitioner approached for grant of NOC in respect of private patta land, the respondents are not issuing the NOC thus preventing the petitioner from selling a portion of land out of Ac.7.34cents in Survey No.989, and the inaction is illegal, arbitrary and unconstitutional. The petitioner relies upon the order of this Court in W.P.Nos.26792 of 2009 and 26794 of 2009 dated 23.12.2009.

This Court directed the learned Government Pleader to get instructions from the office of Revenue Divisional Officer, Kadapa. The instructions are made available through letter No.E/41/2010 dated ...-03-2015. I have perused the instructions sent through the instant letter. The Revenue Divisional Officer, Kadapa, substantially admits the right and title claimed by the petitioner for the subject matter through earliest document dated 20.10.1926. The 2nd respondent does not join issue on the other claim of the petitioner that the petition land is a private patta land. The objection against the maintainability of present writ petition is that without approaching the 2nd respondent, the writ petition is filed complaining inaction by the respondents.

The learned counsel appearing for the parties have substantially reiterated the submissions/instructions referred to above.

Now the short point is whether the petitioner is entitled for grant of relief as prayed for?

Having regard to the admitted facts and circumstances of the case, this Court is of the view that firstly to prohibit registration of a document, the document should be covered by Section 22-A of the Registration Act or for that matter, the provisions of Act IX of 1977. It is not the case of either parties that the subject land is included in the prohibitory list. In view of the fact that the earliest sale deed was executed on 20.10.1926, it cannot be said that the petition land is assigned land with the condition of non-alienability. The request for grant of NOC is directed to be considered and issued on an application made by the petitioner within a period of two weeks from the date of receipt of a copy of this order. Further, the petitioner is

given liberty to present the document for registration before respondent No.3 for the subject matter of the writ petition and the 3rd respondent is directed to receive the document, consider the same under the provisions of the Registration Act and pass appropriate orders without insisting upon the NOC.

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

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

S.V.BHATT, J

Date:16.04.2015

Stp