

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.1435 of 2014

ORDER:

The petitioners pray for Mandamus declaring the action of respondents in not receiving and registering the sale deed presented by the petitioners for the property covered by Sy.No.432 measuring Ac.2.50 cents of land at Perala Revenue Village, Chirala Mandal, Prakasam District as illegal and contrary to the mandate of the Registration Act, 1908 (for short 'the Act').

The petitioners complain against the endorsement of 3rd respondent including the petition land in the prohibitory list as illegal and unconstitutional.

The sub-registrar/4th respondent by referring to the details submitted by the 3rd respondent under Act, 9 of 1977 r/w Section 22-A (1) of the Act declined to receive or register the document presented for the petition land by the petitioners.

The subject matter of the writ petition is an extent of Ac.2.50 cents of land in Sy.No.432 at Perala Revenue Village, Chirala Mandal, Prakasam District. The admitted circumstances are that Sy.No.432 in an extent of Ac.5.00 was assigned in favour of one Suryadevara Ramanaidu through assignment RC 46/DKT/62 dated 14.07.1953.

The case of petitioners is that the assignee was given assignment under political sufferers quota. The assignee through registered document dated 17.03.1960 (Document No.975/1960) sold the entire extent in favour of Pushpavathi, W/o S.Lakshminarayana @ C.L.Narayana. One G.Surya Narayana purchased the property through registered sale deed 24.06.1985 from one I.Sugunamma and others. The petitioners are the successors-in-interest of G.Surya Narayana. The case of petitioners is that firstly, the assignment was made in 1953 and was in favour of a political sufferer and secondly, the provisions of Act 9 of 1977 are *prima facie* not attracted to the assignment made in the year 1953 and thirdly, the political sufferers are entitled to sell the assigned land after completion of ten (10) years from the date of assignment and there is no obligation to have "no objection certificate" from the District Administration.

The 3rd respondent filed counter affidavit for himself and also on behalf of 2nd

respondent. The 3rd respondent admits the assignment in favour of Suryadevara Ramanaidu, but joins issue by contending that it is for the petitioners to approach the 2nd respondent with an application and supporting documents with a request to permit them to alienate the petition land as the assignment was in favour of political sufferers. As the petitioners have failed to approach the respondents, it is contended that the inclusion of petition land in prohibitory list is justified.

In the counter filed by the 3rd respondent, an effort is made to justify that the petition land is covered by the provisions of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977.

From the admitted facts and circumstances, it is clear that the assignment was made as early as 1953. The assignee executed registered document No.975/1960, wherein the assignee has not only referred to the assignment dated 14.07.1953, but also the fact that the assignment was made in his favour under the category meant for political sufferers. Once the assignee himself declares that the assignment was made to him as political sufferer, the 3rd respondent is not justified in drawing inferences to include the petition land in prohibited list as if it is an assigned land with a condition of non-alienability. The burden is on the 3rd respondent to show that such a condition is included in the assignment dated 14.07.1953.

The respondents failed to discharge the burden cast on them. The inclusion of petition land in prohibitory list for registration is illegal and factually unsustainable. The explanation of 3rd respondent is completely unconvincing to prevent registration. The inclusion of petition land in the prohibitory list thus cannot be sustainable. Further, the mere registration is not creating title etc., in favour of the vendee more than what the vendor possesses.

In a case like present prohibition to receive or register by referring to 22-A of the Act, as a fact, is erroneous.

For the above reasons, the writ petition is ordered as follows:

The petitioners are given liberty to present document for registration for the petition land. The sub-registrar/4th respondent is directed to receive and process the same for registration without reference to inclusion of petition land in the prohibitory

list submitted by the Tahsildar.

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

S.V. BHATT, J

Date: 24.03.2015

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