

THE HON'BLE SRI JUSTICE S. V. BHATT

WRIT PETITION No.40063 OF 2014

Date:13.02.2015

Between:

K. Subhadra Devi and others .. Petitioners

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Revenue (Registration)
Department, Secretariat Buildings and others .. Respondents

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ORDER:

This Court through order dated 10.02.2015 directed the Tahsildar, the 4th respondent, to place before the Court the original File No.(A) 518/2013 and letter dated 12.07.2013. The 4th respondent is present and the file /letter is placed before the Court for perusal.

Heard learned counsel for the petitioners and learned Government Pleader for Revenue.

The petitioners pray for mandamus declaring the action of 4th respondent in letter No.(A) 518/2013 in refusing to entertain the document presented for registration for the agricultural land in an extent of Acs.2.85 cents in R.S.No.423/1 of Nandarava Village, Rajanagaram Mandal, East Godavari District, as illegal, arbitrary and contrary to Section 23 of the Registration Act.

The 4th respondent through communication dated 12.07.2013 enclosed the details of agricultural lands in which according to the 4th respondent, the Government have avowed interest and the 5th respondent was requested to refuse registration and also include the survey numbers in the prohibitory list.

The case of the petitioners is that the reason for including

Survey No.423/1 to an extent of Acs.2.85 cents is that the subject land is covered by proceedings in L.R.A.No.107/92 and the enjoyment of the declarant is continuing pursuant to the stay order granted in I.A.No.218 of 1992, dated 01.07.1992. From the statement appended to the communication, dated 12.07.2013, it is clear that the declaration has not been taken to next or subsequent stages much less the subject land stood vested in Government under the Ceiling Act. The case of the petitioners is that through order dated 06.01.1994, Merla Agasthaiah is found to be a non-surplus holder and consequently no land much less the subject land was taken over from the declarant under the Ceiling Act. Therefore, the inclusion of Survey No.423/1 in prohibitory list more particularly without a notification under Section 22-A of the Registration Act is unsustainable in fact and law and pray to set aside the same to the extent of subject land. The petitioners rely upon the order of this Court dated 05.08.2013 in W.P.No.22649 of 2013.

The learned Government Pleader for Revenue, on instructions, and also after perusing the record, submits that the inclusion of subject land in prohibitory list is factually erroneous and it is true that the Government did not file appeal against the order dated 06.01.1994. According to the order dated 06.01.1994, Merla Agasthaiah was found to be a non-surplus holder under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. It is further stated that the then Tahsildar on an erroneous view or without properly examining the records has included the subject land in the prohibitory list. From the stand taken at the time of hearing, it is evident that the 4th respondent is unable to substantiate either in fact or law the inclusion of subject land in prohibitory list maintained by the 5th respondent under Section 22-A of the Registration Act.

Having regard to the submissions and also the material

available on record, the impugned letter dated 12.07.2013 is set aside in so far as the subject land is concerned and consequently the 5th respondent is directed to receive and process the document presented for registration and pass appropriate orders in accordance with law.

The Writ Petition is allowed, as indicated above, to the limited extent. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

S. V. BHATT, J

13.02.2015

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