

**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. 34601 OF 2013

Between:

S.Suseelamma ... 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.34601 OF 2013

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ORDER:

The petitioner prays for mandamus, declaring the order of fourth respondent dated 22/11/2013 in P.No. 68/2013 as illegal, arbitrary and unconstitutional.

2. The petitioner prays for a consequential direction to the fourth respondent to register and release P.No. 68/2013.

3. The subject matter of the writ petition is an extent of Ac:3-00 cents out of Ac:4-54 cents in survey No. 9-A 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 Vajragiri Narasanna and thereafter in the revenue records the said land admeasuring Ac:4-54 cents in survey No.9/A of Velamkur village stands in the name of the husband of the vendor of the petitioner by name Yerraguntla Ramachandra Reddy and his name was entered. On 04/11/2013 the petitioner along with his vendor presented the subject document for registration before fourth respondent. The fourth respondent issued the impugned endorsement dated 04/11/2013 which reads as follows:

1. No.3	Stamp	Date of Document	Date and Honour of Presentation
of 2013	Rs.11550/-	04/11/2013	04/11/2013
P.No.68 of 2013		Reasons for Refusal	
(2) Name and addition of the presentant Smt.Y. Prabhavathi w/o Late Y.Ramchandra Reddy, Velamkur village, Tadipatri Mandal, Ananthapur district.		The document purporting to be a sale deed for a consideration of Rs.2,10,000/- executed by Y.Prabhavathi w/o late Y.Ramachandra Reddy in favour of S.Suseelamma on 4/11/2013 and presented same day for registration, the scheduled property covered by the document an extent of Ac:3-00 in survey No.9/A Ac of Velamkur (v) Tadipatri [M] Ananthapur district. As per the list of prohibited properties communicated by Revenue authorities the land Ac:3-00 acres in survey No.9/A of Velamkur village is a Govt.Land. The Registration of Government lands are prohibited under section 22-A (1) (b) of the Registration Act, 1908 (as amended Act 19/2007). Hence, the document refused for registration. Date:22/11/2013 Sd/- D.Sreenivasula Reddy Sub-Registrar Tadipatri	

(3) Name and additions of Executant Smt. Y. Prabhavathi w/o. Late Y. Ramachandra Reddy, Velamkur village, Tadipatri Mandal, Ananthapur 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.2,10,000/- executed by Smt. Y. Prabhavathi w/o. late Y. Ramachandra Reddy in favour of S. Suseelamma Property covered by the document and Ac:1-54 in the survey No. 9/A of Velamkur village, Tadipatri Mandal, Ananthapur district. Name of the claimant: 1. S. Suseelamma w/o S. Ravindra Prasad D.No.10/278, Tadpatri Name of the Attestors: 1. A. Shafiulla 2. G. Sreerami Reddy
Sd/-D. Sreenivasula Reddy :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 fourth 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 banjer 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 Endowment, 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

I s L

HONOURABLE SRI JUSTICE S.V. BHATT

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