

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.22281 OF 2011

ORDER:

This writ petition is filed stating that the 1st petitioner is a landless poor person and also agricultural cooli. The 3rd respondent has enunciated a scheme which is known as agriculture land purchase scheme for the benefit of landless agricultural labourers belonging to Scheduled Caste Community (S.C.community) and under the said scheme, the 3rd respondent would provide loan to the eligible persons in the S.C. community and beneficiary has to discharge the loan. After discharging the loan, the beneficiary would become absolute owner of the land. The 1st petitioner was identified as one of the beneficiaries under the scheme and was provided loan to purchase the land to an extent of Ac.0-90 cents in Aruduru Village, Varadaiahpalem Mandal, Chittoor District. Accordingly, the 1st petitioner has purchased the subject land in the year 1995 under registered sale deed dated 19-04-1995 and subsequently, the 1st petitioner has cleared the entire loan obtained from the 3rd respondent. Since then, the 1st petitioner is enjoying the land with absolute rights over the same. The 1st petitioner herein approached the 2nd respondent for registration of the subject land in favour of the 2nd petitioner, who is her son on executing gift deed,

dated 28-04-2011. The 2nd respondent has refused to register the same stating that as per the proceedings in Roc.No.D1/LPS/2010, dated 14-05-2010, the registration cannot be entertained in respect of said lands. Assailing the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent stating that the petitioners never approached him for registration of the gift deed dated 28-04-2011 and the petitioners might have obtained a copy of the letter addressed by the District Scheduled Caste Co-operative Society Limited, Chittoor to the Sub-Registrar, Satyavedu. In fact, the said letter dated 14-05-2010 was received in the office of Sub-Registrar and as per said letter, women beneficiaries have no right to alienate the land and it is purchased under a government scheme and therefore, it is a government land. The petitioner if aggrieved has to question the proceedings issued by the 3rd respondent.

The respondents 3 and 4 also filed counter affidavit stating that the Chittoor District, Scheduled Castes Service Co-operative Society Limited is constituted and registered under A.P.Co-operative Societies Act, 1964. The society is having its own by-laws and staffing pattern and affiliated to APSCCFC Limited, Hyderabad. The main object of District Society is to evolve the schemes for the upliftment of scheduled castes beneficiaries in the State

and to implement the same through the District Society at the district level with financial aid provided by the State and Central Governments from time to time. As per by-laws, the Corporation has supervisory powers over the District Societies. It is further submitted that an extent of Ac.58-15 cents of dry land at Aruduru Village of Varadaiah Palem Mandal was purchased and distributed to 63 landless agricultural women beneficiaries vide proceedings No.A4/721/94, dated 02-07-1994 of the Collector/President District SCCS Limited under Scheduled Castes Action Plan 1994-95. Among 63 women SC beneficiaries, the 1st petitioner was also sanctioned loan under the land purchase scheme with 20% margin money, that is Rs.3,780/-+subsidy Rs.5,000/-+loan of Rs.10,120/- a total of Rs.18,900/- was granted and land was registered in the name of beneficiaries and sale deeds, mortgage deeds were executed as per the guidelines, and the above amount of Rs.3,780/- + 10,120/- total Rs.13,900 is recoverable in 10 years with moratorium of 2 years in equal annual installments with interest at the rate of 6% per annum. The 1st petitioner has repaid an amount of Rs.1000/- as on 29-02-2008 against the total demand of Rs.23,742/- including interest. As per the policy decision taken by the state Government, the outstanding loan including interest up to Rs.1,00,000/- (one lakh only)

has been waived. Hence, the outstanding loan amount of Rs.23,742/- in respect of the petitioner was totally waived. It is also admitted that Executive Director, SCCS Limited, Chittoor issued a letter vide ROC.No.D1/LPS/2010 dated 14-05-2010 to the Sub-Registrar in the district and it is informed that the lands purchased and distributed to the SC Agricultural Labour and Women beneficiaries cannot be sold even though the loan is repaid, which defeats the concept and objectives of the scheme. Further more circular dated 01-08-2005 Rc.No.NSF-1/1519/APSC/02 of VC & MD of APSCCFC Limited, Hyderabad also states that the beneficiaries cannot sell the land allotted to them under the land purchase scheme, even though they repaid the entire loan amount. Further as per Lr.No.NSF-1/2008-09/APSC/2009, dated 04-05-2010 of the VC &MD of APSCCFC Limited, Hyderabad also states that the beneficiaries have no power to sell the land to anybody. As per the guidelines of the land purchase scheme, the scheme is initiated for the upliftment of the Sc Women Agricultural Labourers and promote them as land holder, thereby, enhancing social status in the society. By selling away the property or by giving gift, the very purpose of the scheme itself will be defeated. The beneficiary should cultivate the land and she has no right to sell, gift to any body as per the guidelines.

Learned counsel for the petitioners submits that the 1st petitioner has purchased the subject land on the loan provided by the 3rd respondent and it is not an assignment from the Government and even, there is no restriction for alienating the same. He also submits that basing on the circulars, the 1st petitioner cannot be prohibited from alienating the land. More so, the 1st petitioner only wants to gift the land to the 2nd petitioner, who is her son, there is no bar for the same. So also submits that by way of circulars, the respondents cannot prohibit the 1st petitioner from transferring the land.

Learned Assistant Government Pleader for Revenue submits that as the 1st petitioner purchased the subject land under the scheme evolved by the Government, if she is allowed to sell the same the very purpose of scheme would be defeated.

On the other hand, learned counsel appearing for the respondents 3 and 4 submits that since the 1st petitioner purchased the subject land under a scheme, certain circulars were issued prohibiting the sale of the land to see that purpose of the scheme would not be defeated.

The fact that the 1st petitioner purchased the subject land by way of registered sale deed is not in dispute. Though the petitioner raised loan of Rs.18,900/-,

including interest it comes to Rs.23,742/-. Out of it, the petitioner paid only Rs.1000/-. In view of policy decision taken by the State Government, balance loan to be paid by the petitioner was waived and as such, the petitioner became full owner of the subject land by virtue of registered sale deed under which she purchased. Neither counsel appearing for the respondents nor in the counter, it is stated that there is any prohibition selling the land. No provision is brought to my notice prohibiting the land purchased by the 1st petitioner from alienation. The respondents did not even state that any such condition is imposed, while granting loan or in clauses in the registered sale deed executed in favour of the 1st petitioner.

In view of the facts and circumstances of the case, I do not see any reason for the respondents to prevent the 1st petitioner from executing gift deed in favour of the 2nd petitioner. Since it is stated that no such document is presented, it is for the petitioners to present the document and the 2nd respondent to entertain the same and take action for registration of the document without reference to impugned letter dated 14-05-2010 and register the same, if it is in order as per the Stamp and Registration Act. In case, the 2nd respondent wants to refuse to register the same, he shall assign reasons as envisaged under Section 71 of the Registration Act.

Therefore, the writ petition is partly allowed to the extent indicated above. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

06-12-2016
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