

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19081 of 2016

ORDER:

This writ petition is filed challenging G.O.Ms.No.153, dated 03-06-2016, wherein the amendment to Rule 22 of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short “ the Act”).

Learned counsel for the petitioner submits that this G.O. amended rule 22 (2) of the Act in contravention of Andhra Pradesh Scheduled Areas Land Transfer Regulation Act (for short “Regulation Act”)and he also submits that by virtue of this amendment, the Tribals will be effected and the lands purchased from the Tribals will be regularized in contravention of Regulation Act.

Learned Government Pleader for Revenue submits rule 22 of the Act is amended only enabling extending the time for receiving applications for regularization under Section 5 of the Act. He also points out Section 5 A (3) of the Act. Wherein, it is stated that regularization under Section 5–A of the Act cannot be in contravention of the enactment referred to provisions under Section 5-A (3) of the Act.

This writ petition is filed absolutely without any material and it is frivolous litigation. Learned counsel for the petitioner without looking in to the provisions of Section 5-A (2) and 5 (3) of the Act straight away filed the writ petition.

Section 5 (A) (2) of the Act reads as under:

On receipt of such application, the Mandal Revenue Officer shall after making such enquiry as may be prescribed require the alienee or the transferee to deposit in the office of the Mandal Revenue Officer an amount equal to the registration fees and the stamp duty that would have been payable had the alienation or transfer been effected by a registered document in accordance with the provisions of the Registration Act, 1908 as fixed by the registering officer on a reference made to him by the Mandal Revenue Officer on the basis of the value of the property arrived at in such manner as may be prescribed.

Provided that the Mandal Revenue Officer shall not require the alienee or the transferee to deposit the amount under this sub-section unless he is satisfied that the alienation or transfer is not in contravention of the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, the Urban Land (Ceiling and Regulation) Act, 1976, the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977.

Section 5 (A) (3) of the Act reads as under:

Nothing contained in sub-section (1) and sub-section (2) shall be deemed to validate any alienation where such alienation is in contravention of the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, the Urban Land (Ceiling and Regulation) Act, 1976, the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977.

Rule 22 (2) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 reads as under:

The alienee or transferee shall file an application in Form 'X' on or before 31-03-2006 on the notification issued under sub-rule (1) to the Mandal Revenue Officer, if the alienation or as the case may be, the transfer took place before 31-12-2000. Provided that it shall not apply to the alienations or transfers made in contravention of the provisions of the Acts specified in the proviso to sub-section (2) of Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971.

A reading of the above provisions goes to show that no validation of document can be done in contravention of provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 Act and other enactments mentioned in Section (5) (A) (3) of the Act. In view of the same, there is no merit in the writ petition. Obviously rules are always subject to the provisions of enactments referred to thereunder. Any regularizations and validations done in contravention of the Act, it is always open for the aggrieved party to challenge the same. Accordingly, the writ petition is dismissed.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

20-06-2016

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