

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

WRIT PETITION No.14608 of 2009

ORDER :

In this Writ Petition, petitioners assail the action of the respondents in not entertaining and registering sale deeds executed by the petitioners in favour of third parties in respect of the land admeasuring Ac.4-00 gts in Survey No.233/24 of Nizampet Village, Quthubullapur Mandal, Ranga Reddy District.

2. Petitioners contend that vide proceedings No.A3/9420/1960, dt.15.08.1961 one K.Seetharam Reddy S/o K.Rajireddy was issued a patta certificate in Form-9(g) of the Laoni Rules, 1950 (framed under Section 172 of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli) by the then Tahsildar of Nizampet Village for the said land. After the said grant, the name of K.Seetharam Reddy was recorded in the revenue records and Pattadar Passbook and Title Deeds were also issued to him, after sub-division of the lands in survey No.233 and thereafter the land was assigned Sy No.233/24.

3. Petitioners contend that out of the said Ac.4-00 gts of land granted to K.Seetharam Reddy, the 1st petitioner purchased Ac.0-09 gts of land under a registered sale deed bearing document No.7081/2001 dt.21.09.2001, petitioners 2 to 4 purchased Acre 0-27 guntas of land

under registered sale deed bearing document No.7082/2001 dt.21.09.2001 and the petitioner no.s 5 and 6 purchased Ac.3-04 gts under registered sale deed bearing document No.7083/2001 dt.21.09.2001.

4. Petitioners contend that they intended to sell some of the land purchased by them under the above documents and when they approached respondent no.s 1 and 2 for the purpose of making enquiry about the procedure for registration, they allege that respondents 1 and 2 informed them that they would not entertain registration of any sale deeds in respect of the land of K.Seetharam Reddy in view of the bar contained in Section 5 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 and Section 22-A(i)(a) of the Registration Act, 1908 on the ground that sale transactions relating to assigned lands are prohibited by law.

5. Petitioners contend that the prohibition incorporated in Section 5 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 is applicable only to such lands which fall within the definition of the term "Assigned Land" in the said Act; the grant, such as one in favour of Sri K.Seetharam Reddy in terms of Rule 9(g) of Laoni Rules, 1950, is in the nature of a sale since the issuance of such a patta certificate to Sri K.Seetharam Reddy is after conduct of an auction in terms of Rule 9 of the said Rules;

and that under Section 58 of the Act such grant is heritable and the said land is alienable.

6. Petitioners placed reliance on the judgment of a Division Bench of this Court in **Letter Sent from Plot No.338, Parvant Nagar, Borbanda, Hyderabad and others v. Collector & District Magistrate, Ranga Reddy District at Hyderabad, and others**^[1]. They contend that in that case a Division bench of this Court held that a grant under Laoni Rules, after receipt of consideration, is not in the nature of assignment of government land and that the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 have no application to such lands.

7. Petitioners contend that the Division Bench in the above decision went to the extent of holding that even if there is a condition in the patta about inalienability, that condition has to yield to Section 58 of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli, and therefore, the action of the respondent no.s 1 and 2 in treating the grant under Laoni Rules, 1950 as an assignment instead of a sale is contrary to law and the respondent no.s 1 and 2 cannot refuse to entertain and register any sale deeds in respect of the subject lands.

8. Petitioners have also filed WP.MP.No.3932 of 2013 to receive certain documents. In the affidavit filed in support of the said application they stated that some members of a society, by name M/s.Srinivas Housing

Welfare Society, applied to the Deputy Collector and Tahsildar, Qutubullahpur, Ranga Reddy District for regularization of their plots located in Sy. No.233 of Nizampet Village under G.O.Ms.No.166, dt.16.02.2008; that the said applications, numbering in 189, were rejected by order dt.10.03.2010 by the Deputy Collector and Tahsildar, Qutubullahpur; that they filed W.P.No.34867 of 2011 before this Court; and this Court by order dt.14.09.2012 allowed the said Writ Petition.

9. According to the petitioners herein, in W.P.No.34867 of 2011 it was categorically held by this Court that an assignment made under Rule 9(g) of Laoni Rules, 1950 is through an auction and that the fact that assignment is made or rights are conferred in Form-G provide clinching proof of the fact that the assignment was made under Rule 9(g); that the proceedings under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 can be initiated only if there is a condition in the assignment prohibiting alienation of the land; and if land is assigned in favour of landless poor or other persons without a condition being incorporated in the grant prohibiting alienation, the very invocation of the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 in respect of such land, is untenable.

10. The learned Single Judge (in WP.No.34867 of 2011) also relied upon the judgment in ***Letter Sent from***

Plot No.338, Parvant Nagar, Borbanda, Hyderabad and others' case(1 supra) and held that lands assigned under Rule 9(g) of the Laoni Rules are not amenable to the proceedings under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977.

11. Copy of the proceedings dt.10.03.2010 passed by the Deputy Collector and Tahsildar, Quthbullapur Mandal, Ranga Reddy District and the order dt.14.09.2012 in W.P.No.34867 of 2011 were filed along with WP.MP.No.3932 of 2013.

12. Counsel for the petitioners reiterated the above contentions and submitted that action of respondents 1 and 2 in refusing to register the sale deeds presented by the petitioners on the ground that the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 are applicable to the subject land is arbitrary, illegal and violative of Articles 14 and 300A of the Constitution of India.

13. Counter affidavit is filed by 2nd respondent stating that the petitioners have not presented any document for the purpose of registration in the office of the 2nd respondent in respect of the land in survey No.233/24 of Nizampet Village and petitioners' allegation that they approached his office and they were told that the sale deeds which would be presented by them will not be processed, is not correct. However, reliance is placed on

Section 22A of the Registration Act, 1908 as amended by the A.P. State Legislature through Amended Act No.19 of 2007 w.e.f. 20.06.2007 which laid down that documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government, would not be registered. Reference is also made to Section 3(1)(2) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 and it is contended that petitioners seek registration of sale deed in respect of the property which is a government land and therefore in view of Section 22-A(i)(a), such registration cannot be done. It is also stated that the judgment in ***Letter Sent from Plot No.338, Parvant Nagar, Borbanda, Hyderabad and others'*** case (1 supra) has been questioned by the State in SLP.No.10725/28/2009 and that the matter is pending before the Supreme Court of India for final adjudication.

Reference is also made to a Notification in G.O.Ms.No.292, dt.09.03.2005 published in the Official Gazette barring registration of lands in survey No.233/24 and it is contended that as per Sub-Section (4) of Section 22-A of the Registration Act, 1908, notifications issued between 01.04.1999 and 20.06.2007 which had been struck down by the Court had been validated by virtue of the validation clause in the A.P. Act No.19 of 2007. He therefore contends that if any document is filed for registration in respect of the land in Sy No.233/24, the

respondents 1 and 2 have no option except to desist from registering the same.

14. The State of Andhra Pradesh has been impleaded as 3rd respondent, but no counter affidavit has been filed by it.

15. The Government Pleader for Assignment reiterated the stand taken in the Counter of 2nd respondent. He further contended that the petitioners had not impleaded the District Collector, Ranga Reddy District or the Revenue Divisional Officer of Qutubullapur Mandal as parties to the Writ Petition. He also stated that there is also no interim order granted by the Supreme Court suspending the judgment in ***Letter Sent from Plot No.338, Parvant Nagar, Borbanda, Hyderabad and others***' case (1 supra) in an Appeal filed against it in the said Court. According to him, even the judgment in W.P.No.34867 of 2011 being relied upon by the petitioner, was questioned by the State in a Writ Appeal, but he did not dispute the fact that no interim order was obtained in that Writ Appeal by the State. He fairly admitted that Section 22A as amended by the A.P. Act No.19 of 2007 w.e.f. 20.06.2007 was considered by a Full Bench of this Court in ***Vinjamuri Rajagopala Chary and others Vs. State of Andhra Pradesh, rep. by Principal Secretary, Revenue Department, Hyderabad and others***^[2] and the decision of the Full Bench is subject matter of an SLP

in the Supreme Court and the Supreme Court had directed that registrations may go on.

16. I have noted the submissions of the parties.

17. No doubt, the State of A.P. is impleaded as respondent no.3 in the Writ Petition.

18. Section 104 of the Andhra Pradesh Reorganisation Act, 2014 specifically provides that if the erstwhile State of Andhra Pradesh was a party to any legal proceedings, immediately before the appointed day (02.06.2014) with respect to any property, rights or liabilities, the State of Andhra Pradesh or the State of Telangana, which succeed to that property, shall be deemed to be substituted for the erstwhile State of Andhra Pradesh or added as a party to those proceedings and proceedings may continue accordingly. The said provision reads thus:

“104. Legal proceedings:- Where, immediately before the appointed day, the existing State of Andhra Pradesh is a party to any legal proceedings with respect to any property, rights or liabilities subject to apportionment between the States of Andhra Pradesh and Telangana under this Act, the State of Andhra Pradesh or the State of Telangana which succeeds to, or acquires a share in, that property or those rights or liabilities by virtue of any provision of this Act shall be deemed to be substituted for the existing State of Andhra Pradesh or added as a party to those proceedings, and the proceedings may continue accordingly.”

19. In view of the above provision that if the erstwhile

State of Andhra Pradesh is a party to a proceeding in respect of a particular property, and after bifurcation of the said State into the State of Telangana and the Residuary State of Andhra Pradesh, if the said property accrues to the State of Telangana, the State of Telangana would be deemed to be substituted in the pending proceedings, therefore the State of Telangana is deemed to be a party to the present proceedings. This legal position is not disputed by the Government Pleader for Assignment for the State of Telangana, who argued on behalf of the respondents.

20. In chief **Conservator of Forests v. Collector**^[3], the Supreme Court held:

“ 13. The question that needs to be addressed is, whether the Chief Conservator of Forests as the appellant-petitioner in the writ petition/appeal is a mere misdescription for the State of Andhra Pradesh or whether it is a case of non-joinder of the State of Andhra Pradesh — a necessary party. In a lis dealing with the property of a State, there can be no dispute that the State is the necessary party and should be impleaded as provided in Article 300 of the Constitution and Section 79 CPC viz. in the name of the State/Union of India, as the case may be, lest the suit will be bad for non-joinder of the necessary party. Every post in the hierarchy of the posts in the government set-up, from the lowest to the highest, is not recognised as a juristic person nor can the State be treated as represented when a suit/proceeding is in the name of such offices/posts or the officers holding such posts, therefore, in the absence of the State in the array of parties, the cause will be defeated for non-joinder of a necessary party to the lis, in any court or tribunal.” (emphasis supplied)

21 . Once the State of Telangana is deemed to be a party to this Writ Petition in view of sec.104 of the A.P. Reorganisation Act,2014, the fact that District Collector, Ranga Reddy District or the Revenue Divisional Officer, Quthubullapur are not parties is irrelevant, since they are mere officers of the State of Telangana. It was for the said State of Telangana to file a Counter affidavit and contest the matter, but it has not chosen to do so even though 7 years have elapsed since the filing of the Writ petition and 2 years has elapsed since the bifurcation of the State and the matter had been adjourned from 6.6.2016 till 24.6.2016 atleast 5 times. Neither District Collector nor the Revenue Divisional Officer can claim any superior right in the property to that of the State. So their non-joinder as parties in the Writ Petition does not vitiate in any way the Writ petition. Therefore the submission of the Government Pleader for Assignment that unless the District Collector and the Revenue Divisional Officer are impleaded as parties to the Writ Petition no relief can be granted to the petitioners, is rejected.

22 . In ***Letter Sent from Plot No.338, Parvant Nagar, Borbanda, Hyderabad and others'*** case (1 supra) a Division Bench of this Court considered the nature of a patta granted under Rule 9(g) of Laoni Rules, 1950. It held that the Laoni Rules were made by the Governor in exercise of the powers conferred upon him under Section 172 of the Telangana Area Land Revenue Act, 1317 Fasli

which provides procedure for obtaining unoccupied land, that under the said rule any person desiring to take such unoccupied land, shall submit a petition to the Tahsildar and under the said rule, grant of patta was of two kinds – (i) one by way of sale in favour of persons who were desirous of taking up unoccupied land and in respect of such persons, grant of patta was by way of sale and (ii) the other mode of grant was assignment in favour of landless poor persons, who directly engage themselves in cultivation and such assignment would be free and although such lands are heritable, they are not alienable.

It noted that Section 58-A of the Telangana Area Land Revenue Act puts a restriction for transfer of occupied land notified in respect of any village or tract of the area to which Act extends, that the right of occupation of any land under Section 54 given after the date of the notification shall not be transferable without obtaining the previous sanction of the Collector, but that no notification was issued by the State Government under Section 58-A prohibiting transfer of occupied lands granted patta under Section 54 and this was recorded by this Court in W.P.No.144 of 1975 dt.06.12.1976. The Division Bench held that Section 58 of the Telangana Area Land Revenue Act 1317 Fasli clearly demonstrates that the Legislature never intended to impose ban on transfer of occupancy right granted and Rule 9(g) of Laoni Rules did not prohibit alienation of the lands and it only prescribes

that on receipt of full amount, permission to occupy the land shall be given to the party in Form-G in duplicate and the signature of the allottee shall be obtained thereon along with the date. It observed that once the sale is conducted after an upset price is fixed by the Collector and the allotment of land is made to an applicant, such land is heritable and transferable under Section 58 of the Telangana Area Land Revenue Act and the condition, if any, imposed for sale of unoccupied land on payment of market value under Form-G is only till the sale is confirmed by the Collector but not later. The Bench held that *unless a notification is issued notifying in respect of any village or tract or the area to which the Act extends prohibiting transfer of occupancy rights without obtaining previous sanction of the Collector, any condition prescribed for obtaining permission for occupation of land which was granted Laoni patta on confirmation of sale by the collector, which is governed by Section 58 of the Act, has to be ignored.* It held that the condition of inalienability under Form-G issued under Rule 9(g) is inapplicable to the lands where occupancy rights/assignments were granted on collection of market value and prior to issuance of notification under Section 58A, if any.

23. Since this judgment has not been suspended by the Supreme Court, the ratio therein will continue to operate and bind the respondents.

24. Since admittedly patta was granted to Sri K.Seetharam Reddy S/o K.Rajireddy by proceedings No.A3/9420/1960 dt.15.08.1961 is in Form-G issued under Rule 9(g) of the Laoni Rules, 1950, in view of the Division Bench judgment in ***Letter Sent from Plot No.338, Parvant Nagar, Borbanda, Hyderabad and others'*** case (1 supra) the contention therein that the land which is subject matter to the said grant is not transferable, is inoperative. Also no notification issued under Section 58-A of the Telangana Area Land Revenue Act 1317 Fasli prohibiting transfer of land in which occupancy rights or assignments were granted under Rule 9(g) of the Laoni Rules, 1950, on collection of market value has been placed on record. Therefore the subject land cannot be said to be Government land, attracting Sec.22-A (i)(a) of the Registration Act,1908 either.

25. Therefore the grantee K.Seetharam Reddy S/o K.Rajireddy had full power to alienate the land in favour of the petitioners and once the land was purchased by the petitioners, they are also entitled to further alienate it and such sale is permitted by law, and is not prohibited by law.

26. Therefore, the Writ Petition is allowed; the respondents 1 and 2 are directed to consider the documents, if any, presented by the petitioners for the purpose of registration without raising any plea that the said land is Government land and take action in

accordance with law. There shall be no order as to costs.

27. Consequently, the miscellaneous petitions, if any pending, shall stand closed.

M.S.RAMACHANDRA RAO, J

19th July, 2016.
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[\[1\]](#) 2008(5) ALT 313 (D.B.)

[\[2\]](#) 2016(1) ALT 550 (FB)

[\[3\]](#) (2003) 3 SCC 472