

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos. 35196 and 35198 of 2016

COMMON ORDER:

1) Since both the writ petitions are inter-connected the following common order is passed.

2) Inaction of the second respondent in not receiving and registering ten sale agreements is subject matter of challenge in both the writ petitions.

3) Heard learned counsel for the petitioner, Government Pleader for Revenue appearing for respondent Nos.2 to 4 and Sri B.Prakasam, learned Standing Counsel appearing for respondent Nos.6 to 7 and perused the affidavit and counter filed by respondent No.5.

4) In the year 1994, the Government of Andhra Pradesh introduced a Land Purchase Scheme in respect of dry lands in Modepalli Village, Addanki Mandal, Prakasam District, Andhra Pradesh. The said land was sought to be distributed to different beneficiaries on payment of 30% of the prescribed fee which was implemented through the District Scheduled Castes Service Co-operative Society Limited, Prakasam District, by fixing the rate at Rs.13,000/- to Rs.31,000/- per acre. The Collector/ Chairman, District Scheduled Castes Service Co-operative Society Limited, Prakasham accorded sanction for purchase of the land and also for registration of the same in the name of individual scheduled caste

women beneficiaries directly after paying the amount fixed by the District Collector to the respective pattadars, who were in possession of the land as rightful owners. The Special Deputy Tahsildar was authorized to get the lands registered in the name of individual beneficiaries. It was further ordered that the sale deeds should be mortgaged to the society against the loan for purchase of the land and the Special Deputy Tahsildar was directed to personally hand over the lands to the beneficiaries, after registration. The said margin money and the SCA Loan was made recoverable from the beneficiaries on yearly instalments with interest thereon. Pursuant thereto, the sale deeds were executed in the names of the beneficiaries. Subsequently, the Government issued G.O.Rt.No.492, Social Welfare (SCP-I), Department dated 07.07.2009 waiving the loan amounts advanced to the persons belonging to SC, ST and BC communities under the said scheme. Since the loan amount advanced to them was waived and as there are no dues, all the documents were released in favour of the beneficiaries. Subsequently, the beneficiaries, who acquired the subject land, intended to sell the said land to the petitioner which led to entering into ten sale agreements with Gosala Subba Rao and others, after receiving the sale consideration. When they approached the Sub-Registrar, Addanki requesting him to register the sale deeds, the second respondent refused to register the above sale deeds without assigning any valid reasons, which action is subject matter of challenge in the present writ petitions.

5) Learned counsel for the petitioner mainly submits that the issue involved in these writ petitions is squarely covered by a batch of writ petitions and writ appeals and as such the same has to be allowed.

6) Though the Government Pleader for Revenue orally opposed the same, but learned Standing counsel representing respondent No.5, 6 and 7 opposed the petition by filing counter. According to him, the petitioner had purchased the lands from the beneficiaries of District Scheduled Castes Co-operative Society Limited, Prakasham District under Land Purchase Scheme. Since the said lands were given to the beneficiaries for a specific purpose, they cannot have any right to sell the same and make a profit out of it. According to him, the object of the scheme would be defeated if the beneficiaries are allowed to sell the property, but however admits that the Government has taken a decision to waive the loan and the loan in respect of the beneficiaries with whom the writ petitioner entered into an agreement, was waived. It has been stated that respondent Nos.5 and 6 instructed the Executive Director not to release the original sale deeds as there is every likelihood of the beneficiaries selling away the land to third parties. It is his case that if the lands are allowed to be sold, the beneficiaries would again become landless persons and attain their previous position.

7) Issue identical to the case on hand came up for consideration before this Court in number of cases. In Writ

Appeal Nos.1052, 1060, 1062 and 1066 of 2012, which were filed by the Andhra Pradesh Scheduled Caste Co-operative Finance Corporation Limited, aggrieved by the orders of the single Judge, the Bench held as under:

“8. A perusal of the guidelines of the scheme, which are relied upon by the appellants' counsel, does not contain any clause prohibiting alienation of the land provided under the scheme. It is not even the case of respondent Nos.4 and 5 that there is any prohibition imposed subsequent to the formulation of the scheme. If the object of the scheme is to provide agricultural land to the beneficiaries with an intention to provide permanent income generating asset, the authorities ought to have taken steps at the time of formulating the scheme itself by mentioning some clauses of prohibition of alienation of the lands provided under the scheme. Admittedly there is no such condition of prohibition imposed even by this date. In the absence of such prohibition, the beneficiaries are entitled to sell the land. Hence, we are unable to accept the said contention of the learned counsel for respondent Nos.4 and 5-appellants herein.”

8) Subsequently, in W.P.No.11559 of 2015 a learned Single Judge of this Court after referring to the orders passed by a Division Bench of this Court in W.A.No.1052 of 2012, directed the second respondent therein to receive and process the documents presented by the petitioner therein in compliance with the Indian Stamp Act and the Registration Act, register and release the same in favour of the claimants, if it is found otherwise.

9) Similar such order, directing registration came to be passed in W.P.Nos.42100 of 2015 and W.P.No.42144 of 2015 dated 29.12.2015.

10) The counsel for the petitioner also placed reliance on the orders passed by a Division Bench of this Court in Writ Appeal Nos. 185, 186 and 187 of 2012, wherein this Court by an order dated 15.02.2012 held as under:

“9. There is nothing in the Scheme, which prohibits the land owner from transferring or alienating the property allotted to him. By keeping the original documents, the appellant-Corporation has put a restriction on the right of the respondents, which is not warranted by law. In any case, no provision to this effect has been shown to us. As far as Clause 6.6 of the Scheme is concerned, this is applicable only during the period the loan is required to be paid by the beneficiaries. Once the loan is repaid, the documents cannot be kept by the Executive Director or any other person of the appellant-Corporation.”

11) As repayment of loan amount is waived, the argument of the learned counsel for respondent-Corporation that the said land cannot be registered in favour of the petitioner cannot be accepted.

12) Coming to the argument of learned counsel for respondent No.5 that the object of the scheme would be defeated if the beneficiaries are allowed to sell the land in favour of the petitioner, the said issue was dealt with by a Division Bench of

this Court in W.A.No.1052 of 2012 and Batch dated 09.07.2013.

The relevant portion of the order reads as under:

“There is no prohibition in the scheme from alienation of such lands and in the absence of such prohibition, the beneficiaries are entitled to sell the land.”

13) In view of the orders passed by this Court and the fact of waiving of the loan obtained by the beneficiaries from whom the petitioner has purchased the subject land is not in dispute, the writ petitions are allowed, directing the authorities to release the documents, if they are in their custody and the second respondent is directed to receive and process the documents presented by the petitioner in compliance with the Indian Stamp Act and the Registration Act and register and release the same in favour of the petitioner, if the documents are found to be otherwise.

14) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

24.11.2016

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