

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.27480 OF 2016

ORDER:

The case of the petitioner is that he is the absolute owner and possessor of land admeasuring Ac.0-84 cents, Ac.0-89 cents, Ac.0-80 cents, and Ac.1-86 cents in Sy.Nos.328-3, 328-4 and 328-5 and 329-1B situated in Kavalipalli Village Grampanchayat, Piler Mandal, Chittoor District having purchased the same for valuable consideration through registered sale deed vide document No.1828/2014, dated 15.09.2015 from his vendor by name Loka Sanjeevaiah and his name was also mutated in the 1B Revenue records and pattadar pass book was also issued in his favour. It is also submitted that the vendor of the petitioner purchased the said lands through registered sale deeds dated 18.07.2011 and 20.07.2011 from Kodi Rama Devi and Nare Srinivasulu Naidu and his family members who in turn purchased the same through registered sale deed dated 24.09.1946 from Nare Ramaiah, who in turn purchased the same through registered sale deed dated 17.04.1945 from Kodi Ramanarayana Reddy, who in turn purchased the same through registered sale deed dated 04.01.1943 from Anamalasetti Mutyalu. It is further submitted that the title of the petitioner is traceable to 1943 ever since the said land is being treated as private

patta lands and the petitioner's vendor's name and the names of their vendors' vendors were entered in the revenue records. While so, the petitioner made two separate applications dated 18.01.2016 and 18.04.2016 to the 3rd respondent for conversion of aforesaid agricultural land into non-agricultural purpose for construction of petrol bunk. In pursuance to the said applications, the 3rd respondent directed the 4th respondent to enquire into the matter and submit a report. Accordingly, the 4th respondent submitted reports dated 03.03.2016 and 19.05.2016 recommending petitioner's case for conversion. Thereafter, the 3rd respondent issued the impugned endorsement dated 06.05.2016 and 06.06.2016 rejecting the applications of the petitioner on the ground that the land in Sy.No.329/1B is dotted land and the other lands in Sy.Nos.328-3, 328-4, 328-5 are prohibited from registration. Aggrieved by the same, the present writ petition is filed.

Counter is filed by the 4th respondent stating that the land to an extent of Ac.5.95 cents in Sy.No.328 and Ac.7.50 cents in Sy.No.329 are "dotted" lands and that the above survey numbers are subsequently sub-divided and assigned. It is also stated that the entire issue comes under the purview of the Full Bench judgment of this Court dated 23.12.2015 in W.A.Nos.343/15, 232/2012 and 352/2013

and in view of the said judgment, the applications of the petitioner are rejected.

Learned counsel for the petitioner submits that the applications of the petitioner cannot be rejected on the ground that the said lands are recorded as “dotted” lands as per the Full Bench Judgment. In support of his contention, he relied on judgment reported in ***Vundavalli Veera Raghavamma, and others v. Government of A.P., rep., by its Principal Secretary, Revenue Department and others***¹ wherein it is stated that mere dots in RSR would not constitute evidence of title. He also submits that the registration transactions in respect of the subject lands pertain to 1945 and the assignments are also prior to 1945. He further submits that the Tahsildar also recommended for conversion of the said lands from agricultural lands to non agricultural purpose and as far as alienation is concerned, there is no bar because alienation clause was brought into affect only in the year 1954.

Learned Assistant Government Pleader for Revenue submits that as per Full Bench judgment, the lands are assigned lands and the same are recorded as dotted lands and are prohibited from registration and in any event, the petitioner has an affective alternative remedy of appeal before the competent authority.

¹ 2014 (2) ALT 35

In this case, it is to be seen that the petitioner is not seeking for alienation of the subject lands or for registration of the said lands. The petitioner has purchased the said lands by way of registered sale deeds and seeking for conversion of the said lands from agricultural land to non-agricultural land. This Court in ***Vundavalli Veera Raghavamma, and others v. Government of A.P., rep., by its Principal Secretary, Revenue Department and others*** held that

“In view of the settle legal position referred to above, the ground on which respondent No.3 has rejected permission to the petitioners for conversion is wholly unsustainable and the impugned endorsements are, accordingly, set aside respondent No.3 is directed to reconsider the petitioner’s application afresh without reference to the dots in the RSR and based on the documents filed by the petitioners showing their ownership and title. He shall communicate the decision taken afresh to the petitioners within a period of one month from the date of receipt of a copy of this order”

In view of the same, the applications of the petitioner for conversion of agricultural lands to non-agricultural purpose on the ground that lands are recorded as dotted lands cannot be rejected.

In the counter it is not denied that the transactions are from 1945 through registered document dated 17.04.1945. Moreso, no notification as envisaged by the

Apex Court is issued under Section 22-A(e) of the Registration Act, 1908.

In view of the same, rejection on the ground that the lands are prohibited for registration cannot stand. As far as the appeal is concerned, since the rejection is on the ground that lands are in prohibited list and no notification is placed in respect of his claim, I do not see any ground to drive the petitioner to avail an alternative remedy.

In view of the above facts and circumstances, I see that the impugned orders of rejection are without any application of mind and they are accordingly set aside. The respondent No.3 is directed to reconsider the petitioner's applications afresh without reference to the dots in the RSR and based on the documents filed by the petitioner showing his ownership and title and shall communicate the decision taken afresh, to the petitioner.

The writ petition is allowed. No costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

22-09-2016

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