

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.15571 OF 2016

ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in not registering/accepting the documents for registration in respect of the property of the petitioners situated at Pekeru Village, Iragavaram Mandal, West Godavari District, as illegal and arbitrary and for a consequential direction to the 4th respondent to register the properties of the petitioners or their associates or any other person/s claiming through them or under them, without reference to the entry in the records as "Prohibition on the ground of assignment lands".

The case of the petitioners is that they are the owners and possessors of the property to an extent of Ac.1.21 guntas, in Sy.No.151/2, Ac.0.34 guntas in Sy.No.150/3, Ac.0.38 guntas in Sy.No.225/5 and Ac.0.37 guntas in Sy.No.226/24B, respectively, situated at Pekeru Village, Iragavaram Mandal, West Godavari district and they are exercising their long standing ownership and possession over the aforesaid lands. While so, the 2nd respondent through proceedings dated 21.03.2013, issued notification under 4(1) of the Land Acquisition Act, 1894, sought to acquire the said extents of the land for the purpose of construction of houses for weaker section in the society. Pursuant to the aforesaid notification, the petitioners along with other land-loosers, have filed objections. Thereafter, though the 3rd respondent issued proceedings dated 09.04.2013, seeking to conduct enquiry under Section 5 A of the Act, however, no further proceedings took place and the notification lapsed. But, the respondents are treating the

lands of the petitioners as assigned lands and refusing to register the aforesaid property, in view of the notification issued under Section 4(1) of the Act on 21.03.2013, though there is no separate notification issued under Section 22 A of the Registration Act, 1908. It is also stated that the District Collector addressed a letter dated 10.01.2015 informing the subordinates that the earlier proposal for acquisition has expired as no award is passed and that if still the department needs the land, it may be examined with reference to the new Land Acquisition Act and follow the procedure there under. In spite of the same, when the vendor of the petitioners made an application on 3.10.2015 to the 4th respondent to register the subject property, the 4th respondent without even knowing or reference to the proceedings dated 10.01.2015, issued proceedings dated 5.10.2015 seeking clarification whether to go ahead with the registration process or not in view of the notification dated 21.03.2013. Aggrieved by the same, present writ petition is filed.

Learned counsel for the petitioners submits that though the 2nd respondent issued proceedings dated 10.01.2015, stating that the earlier proceedings dated 21.03.2013 have been lapsed, still the 4th respondent is not entertaining the documents presented by the vendor of the petitioners and that there is no notification prohibiting the registration of the subject lands as per Section 22 A of the Registration Act, 1908.

Heard learned Assistant Government Pleader for Revenue.

In the present case as per the proceedings of the 2nd respondent, dated 10.01.2015, it is clear that the land acquisition

proceedings issued on 21.03.2013 in respect of the subject lands has already lapsed by afflux of time. Even otherwise, the 5th respondent cannot refuse to receive the documents presented for registration as per Section 71 of the Registration Act, 1908, which reads as follows:

71. Reasons for refusal to register to be recorded:-

(1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2 and endorse the words "registration refused" on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

In view of the above, the 4th respondent is bound to receive the document for registration and register the same if the same is in order as per the Registration Act and the Rules made there under. Otherwise, he shall record the reasons for refusal as envisaged under Section 71 of the Act and communicate the same to the petitioners. But the matter cannot be kept pending by the 4th respondent on the guise that he sought clarification from the 3rd respondent when there is no notification prohibiting registration of the subject land.

In view of the same, the 4th respondent is directed to receive the document presented by the petitioners and register the same if the same is in order. If he wants to refuse registration he shall record reasons there for as per Section 71 of the Registration Act, 1908.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

01.06.2016
t k.