

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.7393 OF 2017

ORDER:

The case of the petitioners is that they are the absolute owners of the land admeasuring Ac.4-04 cents and Ac.4-38 guntas in Sy.Nos.324 and 328 respectively situated at Mandepalli Village, Siricilla Mandal and District having purchased the same through registered sale deeds from one Pothukuri Sudhakar Reddy and others, who inturn purchased the said lands from the successors of Solipeta Venkata Reddy vide registered document No.3121/2006. When Pothukuri Sudhakar Reddy and others proposed to sell the subject land to the petitioners, the 5th respondent insisted for 'No Objection Certificate' and the same was challenged in W.P.No.26555/13, which was allowed vide order dated 08.10.2013. In pursuant to the said order, the petitioners' names were mutated in the revenue records and pattadar passbooks were also issued vide proceedings in B.19/2014, dated 30.05.2014. Thereafter, when petitioners intended to sell the subject land to the prospective purchasers and approached the 5th respondent for valuation of the said property, the 5th respondent issued a Memo dated 15.02.2017 to the petitioners stating that subject lands are included in the prohibited list as per the list furnished by 4th respondent. Basing on the said Memo, the 5th respondent is again insisting for No Objection Certificate, though this Court allowed the writ petition filed by the vendors of the petitioners questioning the insistence of

NOC by the 5th respondent. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

It is to be seen that when petitioners sought information regarding valuation of the subject property, the 5th respondent issued a Memo dated 15.02.2017 stating that the subject lands are included in the prohibited list as per the list furnished by the 4th respondent-Tahsildar. The Full Bench judgment of this Court reported in ***Vinjamuri Rajagopala Chary and others vs. State of Andhra Pradesh rep. by Principal Secretary, Revenue Department, Hyderabad and others***¹ held that as per Section 22-A (1)(a-d) of the Registration Act, 1908 (for short 'the Act') the list has to be furnished by the concerned authority and as per Section 22-A(1)(e) of the Act, the Government has to issue notification in respect of the prohibited properties. In this case, the so called list of prohibited properties is sent by the Tahsildar, who is not the competent authority to send the same as per Section 22-A of the Act. This Court on earlier occasion allowed W.P.No.26555/2013 filed by the vendors of the petitioners, basing on which the registrations are affected in favour of the petitioners.

Section 71 of the Registration Act, 1908 provides as follows:

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

¹ 2016 (1) ALT 550 (F.B)

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.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

As per Section 71 of the Act, the 5th respondent is bound to receive and register the document, if the same is in order as per Stamps and Registration Act and Rules made thereunder, otherwise he shall records for refusal.

In view of the above facts and circumstances, the 5th respondent is directed to receive and register the document presented by the petitioners, if the subject lands are not included in the list of prohibited properties sent by the competent authority and is in order as per the Stamps and Registration Act and the Rules made thereunder, without reference to the list sent by the Tahsildar-4th respondent.

With the above direction, the writ petition is disposed of. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

06.03.2017
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