

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 36803 OF 2015

ORDER:

This writ petition is filed seeking writ of mandamus declaring the action of the 5th respondent in not registering the document vide Pending Document No.P.No.463/2015, dated 08.10.2015 in respect of the petitioner's property of land in Sy.No.443 to an extent of Acs.3.30 cents situated at Bukkarayasamudram Village & Mandal, Anantapur District, on the ground that the said land is in prohibited list, as illegal and arbitrary.

It is the case of the petitioner that she is the owner and possessor of the land to an extent of Acs.3.30 cents in Sy.No.443, situated at Bukkarayasamudram Village & Mandal, Anantapur District, having inherited the same through ancestors. It is stated that due to financial problems, she intended to alienate said property and presented the sale deed dated 08.10.2015 before the 5th respondent for registration after paying the relevant stamp duty, which was assigned pending Document No.463/2015, dated 08.10.2015 and that the same was kept pending on the ground that the said property is in prohibited list communicated by the 4th respondent on 13.03.2007. It is stated that the subject land is patta land and several transactions took place since 1944 i.e., prior to commencement of A.P. Assigned Act, 1977. It is stated that since several transactions took place, the same was registered before the 5th respondent. Since the assignment was prior to 1935, there is no prohibition for transfer of the assigned lands prior to 18.06.1954.

It is also stated that the alleged communication sent by the 4th respondent dated 13.03.2007 with regard to list of prohibited properties, was not communicated to the petitioner and that the said communication is without any basis.

Counter affidavit is filed by the 4th respondent denying the averments in the affidavit filed in support of the writ petition stating that as the land to an extent of Acs.10.36 cents in Sy.No.443, situated at Bukkarayasamudram Village and Mandal, is an assigned land, the Sub-Registrar, Ananthapuram Rural, Ananthapuram District directed petitioner to submit No Objection Certificate from the District Collector for registration of the same. It is stated that originally the land in Sy.No.443 to an extent of Acs.10.36 cents of Bukkarayasamudram Village and Mandal was originally assigned to one Sri Boya Jinka Rudrappa vide D.A.R.Dis.No.345/1335, dated 14.06.1929. Subsequently he sold the same to Bulle Narayanappa vide registered document No.1879/1944 dated 09.08.1944 and after his demise, his wife Smt. Bulle Kondamma got title over the said land. Subsequently the said Kondamma gifted the land to her daughter Smt.C.Nagamma vide registered document No.2926/1958, dated 25.09.1958. It is stated that Smt.C.Nagamma has two sons namely Sri C.Adinarayana and Sri C.Srinivasulu and that the wife of younger son and the present writ petitioner had got title over an extent of Acs.5.83 acres out of total extent of Acs.10.36 cents in Sy.No.443. It is stated that Smt.C.Nagamma got pattadar pass book vide khata No.1081 from the above said land and same is in possession and enjoyment of Smt. C.Nagamma. It is stated that as

per the directions issued by the Government of Andhra Pradesh vide G.O.Ms.No.1142, dated 18.06.1954, proposals would be submitted to the District Collector through the Revenue Divisional Officer concerned for sanction of No Objection Certificate for registration of Government assigned lands, which were assigned prior to the issue of above G.O. In view of above, the subject land was included in the prohibited list of properties as it is an assigned land and same cannot be sold and sought for dismissal of the writ petition.

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

Learned counsel for the petitioner, while reiterating the averments in the affidavit, presented a copy of the registered sale deed and submits that pending writ petition, the subject land was registered and released in favour of the petitioner with a condition that the same is subject to final orders in the writ petition.

In this case, is to be seen that the subject lands are assigned in the year 1929. Even as per the counter affidavit of the 4th respondent, the subject land was assigned prior to the issuance of G.O.Ms.No.1142, dated 18.06.1954. It is not the case of the 4th respondent that there is any prohibition in the assignment proceedings prohibiting alienation of the subject property. In the writ affidavit, a specific assertion is made stating that there is no non-alienation clause in the assignment proceedings, which was assigned, prior to issuance of G.O.Ms.No.1142, dated 18.06.1954 and that the same is not specifically denied in the counter. In fact, in the entire counter affidavit, it is specifically admitted that several

transactions took place after 1929 by way of registered sale deeds. It is also stated that the present petitioner was also issued pattadar pass books. It is not known as to why the respondents are insisting the petitioner to obtain No Objection Certificate from the District Collector, when the assignment is prior to issuance of G.O.Ms.No.1142, dated 18.06.1954. More so, the prohibited list of properties under Section 22-A of the Registration Act, is sent by Tahsildar, who is not competent to do so.

In view of the same, I do not see any reason as to why the petitioner should obtain No Objection Certificate from the District Collector for registration of the document in respect of the subject land, when the same is assigned prior to issuance of G.O.Ms.No.1142, dated 18.06.1954. Since the document is already registered, there shall be a direction to the 5th respondent-Sub Registrar, Anantapur District to delete the clause mentioned in the sale deed stating 'that registration is subject to further orders in the writ petition'.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY,J

20-03-2017
kvs

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