

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.35414 OF 2014

ORDER:

The petitioner prays for Mandamus declaring the market value certificate dated 17.01.2004 issued by the Joint Sub-Registrar-I, Proddutur, Kadapa District/2nd respondent, as arbitrary and illegal and further prays for a direction to respondents to delete an extent of Acs.0-23½ cents in Sy.No.614/1 of Bollavaram Village, Proddutur Mandal from the prohibitory list under Section 22-A of the Registration Act.

The petitioner places the origin of title to subject matter of writ petition as follows:

Sy.No.614 in an extent of Ac.2-60 cents was owned and possessed by 12 persons belonging to scheduled caste. On 15.08.1917, they have sold the subject matter in favour of one Illuri Subbigadu, s/o Illuri Chinna Venkatigadu. The petitioner relies upon subsequent sale transactions dated 20.07.1939, 05.09.1945 and 06.05.1975 to claim ownership and possession of petition land. Now, the grievance against the notice dated 17.01.2014 is that property not coming under any one or other mischiefs of Section 22-A of the Registration Act is included in the prohibitory list vide Ref.POT/Cell/1392/2008 dated 17.02.2010. The note reads as follows:

“The above S.No.614/1A Ac.0-01 cents Government land and S.No.614/1B Ac.1-53 cents Madiga Inam related to prohibited as per the District Collector, Kadapa Ref: PDT/Cell/1392/2008 dated 17.02.2010. Hence prohibited from Registration.”

Hence, the writ petition.

This Court, on 21.04.2015, issued interim direction to receive the document presented by petitioner for registration covering Sy.No.614 of Bollavaram Village, Proddatur Mandal. The respondents filed petition to vacate the interim order.

In the counter affidavit, the respondents admit that Sy.No.614 was, in fact, classified as cobbler/madiga inam. The petitioner's claim of ownership through various sale deeds is also not denied. The main objection in the counter affidavit is that land in Sy.No.614 stood vested in Government as communal land under Section 2-A of the A.P (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act'). Since no patta is issued in favour of the title holder, presumably the land stood vested in Government. Therefore, on account of vesting, the subject land is included in the list maintained under Section 22-A of the Act. Paragraph 5 of the counter affidavit refers that inam land stood vested with Government. Unless and until petitioner produces ryotwari patta obtained from Inams Deputy Tahasildar, the petition land is treated as Government land.

Briefly stated, the assumption on which the respondents have included subject matter in prohibitory list is that the subject matter is treated as communal or poramboke land, and therefore, the land vested in the Government, free from all encumbrances. Section 22-A of the Registration Act deals with documents prohibited from registration. The subject land cannot be treated as communal land or poramboke and stood vested in Government, merely because

ryotwari patta is not obtained. After taking note of admitted and undisputed circumstances, this Court is of the view that the respondents included petition land in prohibitory list erroneously. Re-stated briefly, the earliest transaction vis-à-vis subject land was registered in 1917. It is not the case of respondents that the petition land is assigned land satisfying the definition of assigned land in Section 2(1) of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The respondents assume that under Section 2-A of the Inams Abolition Act, the petition land is treated as communal land. This assumption suffers from another infirmity viz., Section 2-A of the Act was introduced through Amendment Act 12/1975. This Court in *A.V.N.JAGGA RAO (DIED) AND ORS. V. SPECIAL DEPUTY TAHSILDAR (INAMS), VISAKHAPATNAM AND ORS*¹ and *GAJUWAKA GRAM PANCHAYAT v. MEDISETTI VENKATA SURYANAYA AND ANR*² dealt with *vires* of Section 2-A, the scope and applicability of Section 2-A vis-à-vis communal lands.

In *A.V.N JAGGA RAO*'s case it is held thus:

“The dispute relates to Survey Nos.4, 86 and 87 of Gajuwaka village. Gudicut of the Mukhasa was Ac.900-60 cents. Even by the year 1950 as is evident from Ex.P.1, the order passed by the Inam Settlement Officer, Visakhapatnam in SR No.21/49, Visakhapatnam dated 11-3-1950 the Mukhasa grant as per T.D.No.22 mentioned above covers an extent of Ac.350-67 cents. The Barika Service Inam in the village bears an extent of Ac.4-39 cents; Poramboke and unassessed land left for the use of the community comes to Ac.545-54 cents. Therefore, even before the Inams Abolition Act came into force, Poramboke and unassessed land reserved for the common use of the community is Ac.545-54 cents under T.D.No.22. However,

¹ 1997(1) ALD 618 (DB)

² 1995 (2) ALD 174 (D.B)

the contention of the petitioners is that by the advent of the Act these lands being agricultural lands get converted into Ryotwari lands, and therefore, they are entitled for pattas. To put it differently, it is their contention that on the Abolition of the Inam, the Inamdars get a vested right in the land. This contention has been answered by the Larger Bench in *Veeramma v. Surudamma* (1980(1) APLJ 1). The Larger Bench referred to above has answered this and observed that if the Inamdars had a vested right on the advent of the Inam Abolition Act, the same cannot be divested after 20 years in 1975 by virtue of amendment under Section 2(A) of the Act, but the process of vesting does not become complete until the enquiry contemplated under Sections 3, 4 & 7 of the Act is completed. Therefore, the petitioners cannot claim any vesting in this case. So, the Inamdars or tenant cannot claim any right in such land until Ryotwari patta is granted to them by the competent authority under the Act. Till then such a right may be in the offing or a prospective right or in the nature of a nebulous claim. Therefore, the petitioners cannot claim any vested right. But for the Amending Act which came into force on 20-6-1975, perhaps the petitioners would have been entitled to a grant under Sections 4 & 7 of the original Act. Section 2(A) was not held ultra vires. Therefore, the Larger Bench negated the contention of the petitioners”.

In *GAJUWAKA GRAM PANCHAYAT*'s case, this Court held thus:

“.....Section 2-A of the Inam Abolition Act would obviously operate prospectively to vest only such lands which continue to enjoy the inam character on the date when the Section comes into force and cannot be resorted to vest lands which had ceased to be of that nature and sold as much prior to the Section coming into force.....”

A finding of fact on status of land as communal or poramboke is arrived at and then included in prohibitory list. There is no plea or proof placed by respondents on the circumstance viz., the land is communal as late as 1975, warranting further deliberation in this behalf.

From the above discussion, this Court is of the view that the subject matter cannot automatically be treated as coming under one or the other circumstances referred in Section 22-A of the Registration Act and thereby inclusion in prohibitory list and refusing to issue valuation certificate are unsustainable, without jurisdiction and illegal.

The communication Ref.POT/Cell/ 1392/ 2008 dated 17.02.2010 insofar it related to including Sy.No.614/1B in prohibitory list is set aside. The petitioner, if presents the document for registration, the 2nd respondent is directed to receive the document and process for registration, if it is otherwise in order under the Registration Act.

Writ petition is ordered. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

22nd June, 2017

Lrkm

S.V.BHATT, J