

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.39330 of 2017

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Assignment (Andhra Pradesh) appearing for respondent No.5.

When the petitioner presented a document for registration, respondent No.5 received it, kept it pending registration and did not release it. Then, the petitioner filed Writ Petition No.2315 of 2017 before this Court. In the said Writ Petition, he relied upon an endorsement dt 13.12.2016 issued by respondent No.4 to one K.Ramakrishna Rao stating that the subject land had been assigned to one Karanam Sanjeeva Rao, vide proceedings, DAR.Dis.No.313/54 dt 08/6/1950. The said Writ Petition was disposed of on 24.01.2017, directing respondent No.5 to take further action on the pending Document No.267 of 2016 presented by the petitioner taking into account the said endorsement dt 13.12.2016 of respondent No.4 for the purpose of registration of the said document as per the provisions of the Stamp Act, 1899 and the Registration Act, 1908 (for short 'the Act').

Thereafter, respondent No.5 passed the impugned refusal order on 01.11.2017, stating that the subject land is classified as assigned

land as per the list communicated by revenue authorities in terms of order dt 23.12.2015 of this Court in Writ Appeal No.232 of 2012 and batch and accordingly, the registration of the said land is prohibited under Section-22-A(1)(a) of the Act. Assailing the said refusal order, this Writ Petition is filed.

It is not disputed by learned Government Pleader for Assignment (Andhra Pradesh) that the condition prohibiting alienation of assigned lands was included for the first time in G.O.Ms.No.1142, Revenue Department dt 18.6.1954 in respect of the lands in Andhra area of the then composite State of Andhra Pradesh. Therefore, the assignments made prior to 18.6.1954 do not contain any provision prohibiting alienation and they are freely alienable. Consequently, the very inclusion of the subject land by respondent No.2 in the list communicated by him to respondent No.5 under Section-22-A(1)(a) of the Act is contrary to law and does not appear to be *bona fide*. Respondent No.5, therefore, ought not to have refused registration of the document presented by the petitioner in respect of the subject land merely because it is included in the list communicated to him by respondent No.2 under Section-22-A(1)(a) of the Act

Accordingly, the Writ Petition is allowed; the list communicated by respondent No.2 to respondent No.5 under Section-22-A(1)(a) of the Act insofar as the subject land is set aside;

consequently, the order dt 01.11.2017 of respondent No.5 is also set aside; and respondent No.5 is directed to register the said document presented by the petitioner, without reference to the list communicated to him by respondent No.2, strictly in accordance with the provisions of the Stamp Act, 1899 and the Registration Act, 1908. Respondent No.2 shall pay costs of Rs.3,000/- (Rupees Three thousand only) to the petitioner within four weeks from today.

The Registry shall issue show cause notice to respondent No.5 as to why proceedings for contempt of Court shall not be initiated against him for not considering the endorsement dt 13.12.2016 of respondent No.4 while passing the impugned order and thus, acting contrary to order dt 24.01.2017 of this Court in Writ Petition No.2315 of 2017.

As a sequel, Miscellaneous Petitions, if any, pending, shall stand disposed of as infructuous.

JUSTICE M.S.RAMACHANDRA RAO

30th November, 2017
Dr