

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.39274 of 2017

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Assignment, appearing for the respondents.

2. Petitioner has assailed in this Writ Petition refusal of 5th respondent to receive, register and release documents presented by the petitioner in respect of the subject property on the ground that the subject property has been included in the list communicated by 2nd respondent under Section 22A of the Registration Act, 1908 to 5th respondent.

3. Petitioner contends that the extent of Ac.2.02 cts in Sy. No.53-2B was originally assigned in favour of one Mandem Venkatappa in 1932 and an extent of Ac.4.55 cts in Sy. No.53/2C was assigned to one Malreddygari Chinna Mallanna in 1934; the lands had been alienated subsequently by the assignees from time to time and after several such alienations, ultimately, petitioner's father purchased the same from one C.Ravindranath Reddy on 06-10-1997.

4. Learned counsel for the petitioner contends that since the alienation of the subject land is made prior to 18-06-1954 and at that time there was no prohibition of alienating assigned land since it came to be introduced only vide G.O.Ms.No.1142 Revenue Department

dt.18-06-1954, there cannot be any prohibition for alienating the subject land.

5. Learned Government Pleader for respondents does not deny that the alienation of the property took place prior to 1954. He however placed reliance on the decision of the Full Bench in **Vinjamuri Rajagopala Chary and others Vs. State of Andhra Pradesh rep. by Principal Secretary, Revenue Department, Hyderabad and others**¹ and the decision of a Division Bench in **M.Viswanathan Vs. State of Andhra Pradesh rep. by its Chief Secretary, G.A. (Law and Order) Department and others**².

6. Admittedly the decision of the Full Bench, referred to above, is challenged in the Supreme Court and the Supreme Court had permitted all registrations to go on. The Division Bench, in the later judgment, no doubt made an observation that the Government, having regard to a particular fact situation can include the land assigned prior to 1954 also in the prohibitory list but no such peculiar facts in relation to the subject land have been pointed out by the learned Government Pleader for Assignment warranting its inclusion in the prohibitory list. Since it is not disputed that the prohibition for alienation has been introduced for the first time vide G.O.Ms.No.1142 Revenue Department dt.18-06-1954 and since original patta issued to the original assignees is not produced by the respondents in spite of a specific direction to that effect on 08-12-2017, an adverse inference

¹ 2016 (1) ALT 550 (F.B.)

² 2016 (1) ALT 617 (D.B.)

has been drawn against respondents that if such pattas are produced, they will not support the case of the respondents.

7. Accordingly, it has to be held that there is no prohibition of alienation of the subject land. In fact several alienations did take place relating to the subject land and 2nd respondent is not justified in including the subject land in the list of prohibited properties for registration communicated by 2nd respondent to 5th respondent.

8. Accordingly, the Writ Petition is allowed with costs of Rs.2,000/- (Rupees Two Thousand only) to be paid by 1st respondent to the petitioner; the 2nd respondent is directed to delete the subject land from the list of properties prohibited for registration communicated by him to 5th respondent forthwith; and 5th respondent is directed to receive, register and release the document presented by the petitioner in respect of the subject land without reference to any prohibitory list communicated by 2nd respondent, within four weeks of the presentation of the documents by the petitioner.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-12-2017

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