

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.40738 of 2017

ORDER:

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

2. Petitioner intended to register a sale deed in respect of land in Sy.No.512/5 of B.K.Palle of extent 138.88 sq. yds and presented the same for registration before the 3rd respondent, who kept it pending as Doc.No.P.213/2017.

3. Petitioner contends that subject land was assigned prior to 1954 and that the subject land could not have been included in the list of prohibited properties notified under Section 22-A of the Registration Act, 1908 (for short “the Act”) by 2nd respondent to the 3rd respondent. He placed reliance on the order dt.02-03-2012 in W.P.No.23273 of 2011, to which petitioner’s vendor was a party, and the same land was subject matter of the said Writ Petition.

4. In the said Writ Petition, this Court has held:

“It is no doubt true that Section 22-A prohibits transfers in relation to assigned lands. The prohibition, however, would operate only when a condition preventing alienation is incorporated in the orders of assignment. The policy decision to incorporate condition of that nature was taken only through G.O.Ms.No.1142 dt.18-06-1954. In other

words, the assignments that were made prior to the date of the abovementioned G.O. do not prohibit alienation. The respondents admit that the assignments in favour of the ancestors of the transferees are made much prior to 1954.

In that view of the matter, the Writ Petition is allowed. The fourth respondent is directed to furnish the value and other particulars requested for by the petitioners and to pursue the documents without reference to Section 22-A of the Act.”

5. Learned Government Pleader for Assignment appearing for respondents, on instructions, states that because the subject land is assigned land, the 2nd respondent had included it in the list of prohibited properties under Section 22-A of the Act and communicated it to the 3rd respondent.

6. Unless there is a condition prohibition alienation in the deed of assignment, the said land is freely transferable. There cannot therefore be any valid objection to registration of the deed of transfer presented by petitioner.

7. Admittedly, the 2nd respondent was a party to W.P.No.23273 of 2011 as well. So inclusion of subject land in the prohibitory list under Section 22-A of the Act by 2nd respondent is in fact contempt of the order dt.02-03-2012 in W.P.No.23273 of 2011.

8. Therefore, the Writ Petition is allowed, the action of respondent Nos.1 and 2 in notifying the subject land under Section 22-A of the Act, and action of 3rd respondent in keeping the document

presented by petitioner pending without registering the same, are declared as illegal and arbitrary, and the 3rd respondent is directed to register the said document without reference to the list communicated by 2nd respondent and release the same to the petitioner. The 1st respondent shall also pay costs of Rs.5,000/- (Rupees Five Thousand only) to the petitioner for wrongful inclusion of the said land in the list communicated by 2nd respondent to the 3rd respondent, within four (04) weeks.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 05-12-2017
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