

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

WRIT PETITION No.40404 of 2017

O R D E R:

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

2. Petitioner had filed this Writ Petition challenging the proceedings dt.09.02.2017 of the 2nd respondent in Appeal No.01/2017 confirming the order of the 3rd respondent dt.21.05.2016 refusing to register the documents presented by the petitioner on the ground that the said land is assigned land. It is stated in both the impugned orders that because the subject land is assigned land as per the list communicated to the 3rd respondent by the 4th respondent, it is prohibited from registration under Section 22(A)(1)(a) of the Registration Act, 1908.

3. Counsel for petitioner contends that the subject land was purchased by the petitioner under registered sale deed dt.24.07.1997, that in the 1B ROR, petitioner's name has been mutated, and pattadar pass book has also been issued to the petitioner stating that she is the owner of the land, and that falsely treating the subject land as assigned land, the 4th respondent communicated the list to the 3rd respondent stating that it shall not allowed to be alienated.

4. On 30.11.2017 the Government Pleader for Assignment sought time to get instructions and again on 12.12.2017 matter was adjourned for obtaining instructions.

5. Today counter affidavit is filed by the 3rd respondent reiterating the contents of the refusal order passed by him which was confirmed by the 2nd respondent.

6. The respondents have not produced the copy of the deed of assignment of the subject land and have also not stated why the 1B ROR as well as the pattadar pass book issued to the petitioner, accepting petitioner's title over the subject land, are to be disbelieved. Non production of the deed of assignment of the subject land by the respondents therefore requires that an adverse inference be drawn against the respondents that there is no such assignment and the subject land was wrongly and deliberately included in the prohibitory list for extraneous considerations.

7. Therefore, the Writ Petition is allowed with costs of Rs.2,000/- to be paid by the 1st respondent to the petitioner; the intimation of refusal of the 3rd respondent dt.21.05.2016 as well as the order dt.09.12.2017 in Appeal No.1/2017 of the 2nd respondent are both set aside; the communication by the 4th respondent to the 3rd respondent, that the subject land ought not be registered, is also set aside; and the petitioner is directed to present the documents in relation to the subject

land for the purpose of registration before the 3rd respondent, who shall register the same in accordance with the provisions of Registration Act, 1908 and the Indian Stamp Act, 1899 without reference to any prohibitory list communicated to 3rd respondent by the 4th respondent, within a period of four (04) weeks of the presentation of the documents by the petitioner.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

22nd December, 2017.
gra

