

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20972 of 2015

ORDER:

Learned counsel for the petitioners submits that the *lis* in these writ petitions is squarely covered by order dated 23.11.2018 in WP.No.42044 of 2018.

It is the case of the petitioner that he is the absolute owner and possessor of land to an extent of Ac.1.00 of agricultural land in Sy.No.515 (Old Sy.No.559) of Kuragallu Village, Mangalagiri Mandal, Guntur District; that originally, the patta was granted in the year 1922 by the District Collector, Guntur vide proceedings Rc.No.823-22-A-7, in favour of Shaik Imam Saheb to an extent of Acs.6.72 cts in Sy.No.559 of Kuragallu Village. After resurvey, the same was renumbered as Sy.No.515 and the assignee sold the land in the year 1922 vide document No.2213 of 1922, dated 24.08.1922; that there are entries in the Register of Holdings in relation to Sy.No.515 (Old Sy.No.559), showing the following registered documents i.e., Document Nos.2213/1922, 24.08.1922, 115/1927, dated 05.01.1927, 116/1927, dated 05.01.1927, 1354/1932, dated 18.03.1932, 633/1932, dated 14.09.1932, 2930/1943, dated 15.06.1943 and 2931/1943, dated 15.06.1943; that the aforesaid documents show that the land in Sy.No.515 of Kuragallu village was privately held; that the land was originally shown as Reserved land in the revenue records and was converted for the purpose of grant of pattas during the year 1922; that the conversion was sanctioned by the then Deputy Collector on

22.02.1922 pursuant to the recommendations made by the then Tahsildar on 18.02.1922, wherein the Block Rate was shown at 3-21 and the Assessment at Rs.1-14-0 per acre and that the said exercise is contemplated under BSO-15 at para-35; that the petitioner's uncle by name Thota Pentaiah purchased an extent of Ac.1.00 cts of land in Sy.No.515 of Kuragalla Village under registered document No.860/1978, dated 14.06.1978 from Madala Purnachandra Rao and that pattadar pass book and title deeds were issued under the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 showing the patta number as 624 petitioner's family members are in possession and enjoyment of the said property. It is stated that when the petitioner, due to financial requirements, intended to sell the subject land, presented document before the 6th respondent, the same was received and kept pending as P.No.240/2015, dated 27.04.2015 treating the land as Assigned Land. Aggrieved by the same, present Writ Petition is filed.

Though no counter affidavit is filed on behalf of the respondents, learned Government Pleader for Revenue submits that the Government has issued G.O.Ms.No.575, dated 16.11.2018, for deletion of lands from the list of prohibited properties under Section 22-A of the Registration Act, 1908, which were assigned prior to 1954 and in pursuance of the same Circular Memo No.23241/Assn.1/2014, dated 29.11.2018 issued by the Special Chief Secretary directing the District Collectors to instruct the field level staff such as Tahsildars & RDOs for

verification of lists of prohibited properties already sent to the registration authorities notified under Section 22-A(1) (a) & (b) and prepare list of the Government lands assigned prior to 18.06.1954 and communicate the same to the respective Registration Authorities for deletion from purview of Section 22A(1) of the Registration Act. In the said circular, with regard to 22-A(1)(e), the District Collectors are also requested to instruct the field level staff to verify the list published under Section 22 A(1) (e), and to prepare list of Government lands assigned prior to 18.06.1954 and send the same to Government for de-notifying from the lists published in exercise of the powers conferred under sub-section(4) of Section 22 A of the Act.

Learned Counsel for the petitioner submits that subject land in the writ petition was assigned during the year 1922, which is much prior to introduction of non alienation clause by virtue of G.O.Ms.No.1142, dated 18.06.1954. He submits that for the first time, non-alienation clause was came into effect by virtue of G.O.Ms.No.1142, dated 18.06.1954, and that such non alienation clause never existed to grants made prior to 18.06.1954. He submits that the number of transactions by way of registered sale deeds took place from the year 1922 onwards, as such, same cannot be included in the list of prohibited properties treating the same as assigned lands under the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 and that on the said ground, the documents cannot be kept pending for registration.

He also submits that assignments made prior to 1954, there is no prohibition for alienation of assigned lands.

In this case, the assertions in the affidavit filed in support of the Writ Petition goes to show that the subject lands are assigned prior to 1954 and the transactions through registered sale deeds took place prior to 1954. The Government of Andhra Pradesh had issued G.O.Ms.No.575, dated 16.11.2018 for deletion of lands from the list of prohibited properties under Section 22-A of the Registration Act and a Circular dated 29.11.2018 to that effect was also issued wherein certain guidelines were issued to the District Collectors for deletion of such lands from the list of prohibited properties. When the Government has took note of the same and issued G.O and circular referred to above, the inclusion of subject land in the list of prohibited properties appears to be illegal. While considering the similar issue, the Hon'ble Division Bench of this Court vide its order dated 13.02.2013 in WA No.187 of 2013 held that there was no clause prohibiting alienation of assigned lands prior to issuance of G.O.Ms.No.1142, dated 18.06.1954. In view of above facts and circumstances and the documents relied on by the learned counsel for the petitioner, the 6th respondent cannot keep the documents pending for registration from the year 2015 onwards.

In view of the facts and circumstances, this writ petition is allowed, setting aside the inclusion of the petitioner's patta land to an extent of Ac.1-00 cents in Survey No.515 of Kuragallu Village, Mangalagiri Mandal, Guntur District, in the Prohibited List of

properties under Section 22-A (1) of the Registration Act and the 6th respondent is directed to receive and register the documents presented by the petitioner, if the same is not prohibited for registration by any order/injunction passed by the competent Court. No order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in these Writ Petitions, shall stand closed.

10.12.2018
tk/kvs

A.RAJASHEKER REDDY, J

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 10.12.2018

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