

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.9214 OF 2018

DATED :21.03.2018

Between :

Bonthula Easwari W/o.Bonthula Hari Venkata Krishna,
Aged about 34 yrs, Occu : Business,
R/o.D.No.50-117-17/9/3, R.K. House, First Floor,
ASR Nagar, Seethammadhara, Visakhapatnam District.
.. Petitioner

And

State of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department,
Secretariat, Velagapudi, Amaravathi,
Guntur District & others.
.. Respondents



This court made the following :

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ORDER :

Heard learned counsel for the petitioner and learned Assistant Government pleader for Revenue (A.P) appearing for respondents. With their consent writ petition is disposed of at the admission stage.

2. Petitioner claims that land to an extent of 362 Square yards in Sy.No.278 of Madurawada Village, Visakhapatnam was purchased by the petitioner on 08.03.2007 vide registered sale deed from the original owner of the property. The original owner of the property was initially having excess land than the standard holding as per the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1977 (for short 'the Land Ceiling Act'). This piece of land was originally sought to be taken possession. The objection filed by declarant that subject land is standing in the name of lady member of the family that cannot be taken possession and that his two sons who are also declarants were willing to surrender their land in lieu of this land was not accepted. However, the Land Reforms Appellate Tribunal, allowed the appeal setting aside order passed by the original authority. It is a private patta land and cannot be classified as excess land under the Land Ceiling Act, and the same is erroneous. While so, the subject land is shown as prohibited property under Section 22-A of the Indian Registration Act and alienation is now banned. Aggrieved by the same, petitioner applied to the Revenue Divisional Officer, Maharanipect, Visakhapatnam-4th respondent on 01.12.2017

seeking deletion from the list of prohibited properties. Alleging inaction, this writ petition is filed.

3. According to learned counsel for the petitioner as subject land is illegally treated as excess land under the Land Ceiling Act, the RDO alone is competent to delete the land from the list of prohibited properties. Therefore, application was submitted before RDO. In support of his contention that RDO is competent, learned counsel referred to relevant paragraph of the Full Bench Judgement in “**Vinjamuri Rajagopala Chary Vs State of Andhra Pradesh**¹”. As per directions issued by the Full Bench in Para 36 (ix), the application to the competent authority shall be made and accordingly, the application was made to the RDO.

4. As per the circular instructions issued by the Government regarding notification of properties prohibited for registration, the properties governed by Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 are to be notified by the revenue authorities not below the rank of Revenue Divisional Officer.

5. However, a bare reading of the circular instructions extracted in the Full Bench judgment, it appears, power vests in the RDO and the authorities above him for deletion of properties from the list of prohibited properties under Section 22-A of Registration Act but who should undertake the exercise is not clearly specified in the said circular. Learned Assistant Government pleader is also not very specific as to who should undertake the exercise to deal with the objection against Section 22-A (1) (d) of the Act. *Prima-facie*, even if the application is made

¹ 2016 (1) ALT (550) (F.B)

to the RDO and it is entertained by the RDO, it cannot be said that RDO is not competent.

6. In Para 36 (ix) the Full Bench directed to consider the objections on inclusion of property in the prohibited list and to take a decision by the competent authority within six weeks. No reasons are forthcoming as to why the RDO has not taken decision.

7. However, as the writ petition is disposed of at the admission stage, the Court is not expressing any opinion on the alleged delay and competence. Since the time fixed by the Full Bench of this Court has already expired, the Writ petition is disposed of directing the RDO-4th respondent to consider the application of the petitioner dated 01.12.2017 requesting for deletion of the subject property from the list of prohibited properties and pass appropriate orders as warranted by law, within four (4) weeks. If the RDO opines that as per the Government instructions, the issue is to be specifically referred to the District Collector for consideration, he shall refer to the District Collector within two weeks from the date of receipt of copy of this order. If matter is referred to the District Collector, he shall consider the application dated 01.12.2017 addressed to the RDO within four weeks thereafter.

8. It is made clear that with reference to primary contention of learned counsel for the petitioner that the subject land cannot be treated as excess land under the Act, 1973, it is left open to him to agitate if the RDO/District Collector, do not accept the contention of the petitioner for deletion of this property from the list of prohibited properties.

9. Writ Petition is accordingly disposed of. Pending miscellaneous petitions stand closed.

21st March, 2018
Rds

P.NAVEEN RAO,J

