

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION NO.12574 OF 2018

ORDER:

Heard Mr. R.N.Hemendranath Reddy, for petitioners and the learned Assistant Government Pleader for respondents.

Respondent Nos.3 and 5 are present in the Court and have produced the record for inspection. The record produced by respondents is perused along with the counter affidavit of third respondent.

The subject matter of the Writ Petition is Survey Nos.397/1 and 397/2 of Vempalli Village and Mandal, Y.S.R. Kadapa District.

The petitioners pray for mandamus declaring the action of respondent Nos.2 and 3 in including the subject matter of the Writ Petition in prohibitory list either under Section 22(A)(1)(b) or Section 22(A)(1)(e) of the Registration Act, 1908 (for short, "the Act"), as arbitrary and unconstitutional and further pray for consequential direction to receive and register the documents presented under the Act for registration of the subject matter.

The petitioners aver that through registered sale deed dated 21.06.1927, the predecessors-in-interest of petitioners purchased the subject matter and ever-since are in possession and enjoyment of the subject matter. The sale deed dated 21.06.1927, though refers to one survey number i.e. Survey No.397/1, in the course of time the subject matter is sub-divided as 397/1 and 397/2. The petitioners refer to innumerable registrations taking place for subject matter of Writ Petition between 1983-2016 and contend that inclusion now in prohibitory list is impermissible. According to petitioners, the subject matter cannot and could not be treated

as land which can be prohibited for any of the purposes stipulated under Section 22(A)(1)(b) or (e) of the Act. The petitioners, therefore, prayed for receiving the documents presented for registration for subject matter.

The third respondent filed counter affidavit. The counter affidavit justifies inclusion of subject matter in prohibitory list for the following reasons.

“In reply to para 2 of the petitioners affidavit, it is submitted that, originally, the land is classified as service Inam which is fully prohibited for taking up the any kind of registration. It will come through hereditary. As per rules applicable, the lands come under service Inam should be got converted into ryotvari patta so as to get rights like patta land. But, the lands have not been converted into ryotvari patta for which, it is highly objectionable for any kind of registration which is differed. Hence, the contention of the petitioners regarding the registration of such type of service Inam lands stressed in this para may not be correct and the same is liable to be rejected.

In reply to para 3 of the petitioners affidavit, it is submitted that while contacting the Sub-Registrar, Vempalli to issue market value certificate in respect of the lands in Sy.No.397/1 & 2 extent 8.22 and 2.00 acres respectively totalling to an extent of 10.22 acres of Vempalli Village, he has bluntly refused stating that the lands are included in the prohibitory list under Section 22(A)(1)(a) of the registration and the same was uploaded in District website by the District Collector, since, the above lands are included in the prohibitory list, question regarding the registration of such lands does not arise. Sri R.Shiva Sankar Reddy and others have filed Writ Petition 12574/2018 duly praying for registration of their lands in Survey Nos.397/1 and 397/2 extent 2.40 acres of Vempally Village which have been purchased from Sri Narasaiah and Rajaiah by way of registered Document dated 21.06.1927 and later on, apportioned among the following during the year 1969.

Sl.No.	Name	Extent
1	Malla Reddy S/o. 2 nd Petitioner	1.25
2	R.Shiva Sankar Reddy 1 st petitioner	1.02
3	Neelakanta Reddy B/o 1 st petitioner	0.13
	Total	2.40

The matter has been got verified with reference to RSR and Adangal maintained and it is observed that the land in Sy.No.397 extent 10.22 acres of Vempalli Village is stands classified as service Inam in the name of Aturu Subbaiah and 4 others whereas come it is indicated in the Adangal like Sy.No.397/1 and 397/2 extent 8.22 and 2.00 acres respectively totalling to an extent of 10.22 acres of Vempalli Village as dwelling houses. The Government in Memo 126/Assig1(1)/2016 dated 08.02.2016 have directed all the District Collectors to prepare the list of properties covered by clause (a) to (d) of section 22A(a) and properties under clause (e) of section 22(A)(1) for publication in the A.P. Gazette.

Hence, the above indicated lands have been included in the list of prohibited properties under Section 22-A(1)(a) of the Registration Act, 1908 for prohibition. The land in Sy.No.397 extent 10.22 acres of Vempalli Village which was classified as service Inam has been got sub-divided into 2 letters like 397/1 and 397/2 extent 8.22 and 2.00 acres respectively and those two Sy.Nos. are included in the list of prohibited list.”

The Sub-Registrar/respondent No.5 has produced the record communicated by respondent Nos.2 and 3 under Section 22(A) of the Act. Let me at the first instance refer to the admitted state of affairs and then consider the fact in issue between the parties. On 25.06.2016, on the information given by respondent Nos.2 and 3, the subject matter of the Writ Petition has been included under Section 22(A)(1)(b) of the Act. On 31.03.2018, a revised list of properties, which are prohibited from registration under Section 22

of the Act, was communicated. The admitted case of respondent Nos.2, 3 and 5 is that the subject matter of the Writ Petition is not now included under the list prepared under Section 22(A)(1)(b) of the Act. To the same effect, the fifth respondent addressed a letter to the office of learned Government Pleader as well. Therefore, the assertion of petitioners that the subject matter is included in the prohibitory list under Section 22(A)(1)(b) of the Act is denied by respondents. Hence, it is accordingly made clear that no relief by reference to Section 22(A)(1)(b) of the Act needs to be considered by this Court.

The case of petitioners is that subject matter of the Writ Petition was and is private patta land. The earliest sale deed relied on by the petitioner is dated 21.06.1927. Therefore, once the subject matter is not included under any of the sub-Sections namely (a) to (d) under Section 22(A)(1) of the Act, the subject matter cannot and could not be included under sub-Section (e) of Section 22(A)(1) of the Act. Further, for referring to clause (e) of Section 22(A)(1) of the Act, the requirement of law is a notification and in the case on hand no notification was issued and consequently, the rights of the citizen cannot be adversely be affected without recourse to law. The Assistant Government Pleader refers to the stand taken in the counter affidavit and contends that according to the revenue records, the subject matter is classified as service Inam. Therefore, a list is forwarded to the competent authority on 13.10.2017 for issuing notification under Section 22(A)(1)(e) of the Act. Hence, refusing to register the document presented for registration for subject matter is justifiable. The contention is merely noted to be rejected.

According to the view taken by this Court in a catena of decisions including the decision in **C.Radhakrishnama Naidu v. Government of Andhra Pradesh**¹ the respondents to prohibit registration of a document under Section 22(A)(1)(e) of the Act issuance of notification is a *sine quo non*. Respondents cannot treat the pending proposal on issuing notification and refuse to register the documents. Further, the list placed before this Court by the Tahsildar/third respondent admits the state of affairs namely that several registered transactions were taken place and entire subject matter is described as either houses, commercial complexes etc. As on date, for the reasons referred to above, refusing to receive the documents presented by the petitioners under Section 22(A)(1)(e) of the Act is unsustainable.

Hence, the Writ Petition is ordered as follows.

The petitioners are given liberty to submit the document for registration for subject matter before respondent No.5. Respondent No.5 is directed to consider the document for registration, if the same is otherwise in order under the Stamp Act. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(S.V.BHATT, J)

10th July 2018
RRB

¹ 2015(4) ALT 1