HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.375 of 2007

ORDER:

This writ petition is filed to declare the impugned Memo, dated 07.12.2006 in File No.B/2205/2005 of the Mandal Revenue Officer, Moinabad Mandal, Ranga Reddy District, as null and void and a consequential direction was sought to the respondents to consider Form-X submitted by the petitioners, dated 05.12.2005, in respect of the lands in Sy.Nos. 122 and 123, admeasuring an extent of Acs.7-16 gts., of Surangal village, Moinabad Mandal, Ranga Reddy District.

The brief facts of the case, according to the petitioners are that, one Late Chirag Manohar Lingam, the father of the petitioners, purchased the lands admeasuring an extent of Acs. 4.03 gts., and Acs. 3.13 gts., in Sy.No.122 and Sy.No.123 respectively, situated at Surangal Village, Moinabad Mandal, Ranga Reddy District from one M. Sadanandam, son of Peter under an unregistered sale deed, dated 15.11.1988; the father of the petitioners died on 29.07.1990; being the legal heirs of late Chirag Manohar Lingam, the petitioners submitted an application on 05.12.2005 in Form-X before the Mandal Revenue Officer, Moinabad Mandal, Ranga Reddy District requesting for regularization of the unregistered sale deed, dated 15.11.1988; the Mandal Revenue Officer issued Form-XI and Form-XII under Rule 22(3) of A.P. Rights in Land and Pattadar Pass Book Rules, 1989 and submitted a report dated 21.2.2006 to the District Collector, Ranga Reddy District, seeking permission to regularize the said unregistered sale deed; it appears that the District Collector informed the Mandal Revenue Officer that "no Form-X cases for validation of unregistered sale documents be entertained in city surrounding areas as the issues involved will be complicated and required the interpretation of courts and that they may be referred to Civil Court"; in view of the said instructions issued by the District Collector on 02.11.2006, the Mandal Revenue Officer issued the impugned Memo, dated 07.12.2006 advising the petitioners to approach the Civil Court; the petitioners submitted their application within the extended time as per G.O.Ms.No.1765 Revenue (SS1) Department dated 6.10.2005, and the respondents have no authority to reject the application seeking regularization of the un-registered sale deed. Hence, the writ petition.

Counter affidavit has been filed by the Tahsildar-respondent No.2 reiterating the contents mentioned in the impugned memo, dated 7.12.2006.

Learned Assistant Government Pleader contends that alienee or vendor of the land is not made as a party to the petition.

Heard Sri Vedula Srinivas, learned counsel for the petitioners and learned Assistant Government Pleader for Revenue.

Section 5-A of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for brevity 'the Act') deals with regularization of certain alienations or other transfers of lands. According to Section 5-A(1) of the said Act, when a person is an occupant, by virtue of an alienation or transfer made or effected otherwise than by registered document, the alienee or the transferee may, within such period as may be prescribed, apply to the Mandal Revenue Officer for a certificate declaring that such alienation or transfer is valid. Sub Section-1 of Section 5-A of the Act, does not deal with any other condition to be fulfilled for seeking regularization of certain alienations, except the time limit. The time limit will be prescribed by the appropriate authority from time to time. Admittedly, the petitioners filed their application within the time prescribed under Section5-A(1) of the said Act. Sub-Section-2 of Section 5-A of the Act deals with the enquiry by the Mandal Revenue Officer and deposit of the amount equal to the registration fees and the stamp duty etc. The proviso to Sub Section 2 of Section 5-A says that the Mandal Revenue Officer shall not require the alienee or the transferee to deposit the amount under the sub-section unless he is satisfied that the alienation or transfer is not in contravention of the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, the Urban Land (Ceiling and Regulation) Act, 1976, the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. Admittedly, these grounds are not mentioned in the impugned order for rejection of the application of the petitioners. Sub Section-3 of Section 5-A of the Act says that nothing contained in sub-section (1) and sub-section (2) shall be deemed to validate any alienation where such alienation is in contravention of the provisions of the above mentioned Acts.

It is not the case of the respondents that the transaction is contrary to sub sections (1), (2) and (3) of Section 5-A of the said Act. The only objection raised by the Mandal Revenue Officer is that as per the instructions of the Collector, dated 02.11.2006, no

Form-X cases for validation of un-registered documents shall be entertained in city surrounding areas, as the issues involved will be complicated and require the interpretation of Courts and that they may be referred to Civil Court. As seen from the provisions of Section 5-A of the Act, neither Collector nor Mandal Revenue Officer ought to have taken such an objection, when the same is not contemplated under Section 5-A of the Act. Under Rule 22 of Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989, the procedure that has to be followed by the Mandal Revenue Officer has been prescribed for regularization of certain alienations or transfers of land in accordance with Section 5-A of the Act.

As seen from the record, the objections raised in the impugned Memo, dated 7.12.2006 are as follows:

> ***"Through the reference 2nd cited the Collector, R.R. District has informed that non Form-X cases for validation of un-registered documents be entertained in city surrounding areas as the issues involved will be complicated and required the interpretation of courts and they may be referred to Civil Court".***

The said objection is not one of the objections, which can be raised under Section 5-A of the Act, and hence, the impugned Memo, dated 07.12.2006 of the Mandal Revenue Officer, is liable to be set aside and accordingly, it is, set aside. However, the Mandal Revenue Officer is directed to reconsider the application of the petitioners, and verify whether the same is in accordance with Section 5-A of the Act, after following the procedure as contemplated under Rule 22 of the Telangana Rights in Land and Pattadar Pass Books Rules, 1989, and pass appropriate orders, in accordance with law, within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is allowed accordingly. No order as to costs.

Miscellaneous petitions pending if any, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Dated:08/08/2018
Slk

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.375 of 2007

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slk