

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 31374 OF 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the fourth respondent in including the land of the petitioner to an extent of Ac.6.23 cents in Sy.No.1033/ 2A and Ac.1.18 cents in Sy.No.1033/ 2C situated at Basinikonda Village, Madanapalli Mandal, Chittoor District, in the prohibited list vide proceedings in Roc.No.C/ 75/ 2016, dated 07.09.2016, informed to the petitioner vide Memo dated 07.08.2018 as illegal, arbitrary and contrary to G.O.Ms.No.215, Revenue (Assignment-I) Department, dated 13.05.2016.

2) The facts which lead to filing of the present writ petition are as under:

The petitioners claim to be absolute owners and possessors of the land referred to above, having purchased the same vide registered sale deed bearing document Nos.730/ 2005, dated 16.11.2005, 1039/ 2006, dated 23.02.2006 and 6029/ 2006 dated 12.10.2016, from Araveeti Narayana Reddy. Since then they are in peaceful possession and enjoyment of the same without any interruption from anybody. It is stated that originally land admeasuring ac.8.96

cents in Sy.No.1033/2 situated at Basinikonda Village of Madanapalli Mandal, Chittoor District, belongs to palaganti Ramana Boyadu. He sold away half of the land in favour of one Yerraballi Appi Reddy through registered sale deed dated 07.10.1937. Again P.Ramana Boyadu sold an extent of Ac.2.00 cents out of the remaining Ac.4.48 cents to Uragayala Rama Swamy, vide registered sale deed dated 26.10.1948. On 27.02.2012 both Ramana Boyadu and Uragayala Rama Swamy sold an extent of Ac.2.48 cents and Ac.2.00 cents in favour of Yerraballi Appi Reddy, through registered sale deed dated 27.10.1952 and ever since then he has been in peaceful possession and enjoyment of the same. It is said that Yerraballi Appi Reddy had only one daughter by name Rajya Lakshmi. After the death of the parents, the son and three daughters of Rajya Lakshmi, got divided the ancestral properties along with the present schedule property through a partition deed. The land referred to above fell to the share of Araveti Narayana Reddy, from whom the petitioners purchased the said property.

3) From the narration of events referred to above, it appears that the petitioners claim to have purchased the property by way of registered sale deed and are in peaceful possession and enjoyment of the same. In the year 2012, the petitioners herein approached the fourth respondent for

issuance of market value certificate, to which he issued a memo stating that the land is shown as DKT land and he cannot register the same. Aggrieved by the same, the present writ petition came to be filed.

4) The main ground urged by the learned counsel for the petitioners is that since the property in dispute does not find place in the prohibitory list which is annexed to G.O.Ms.No.215, the memo issued by the Sub-Registrar to the effect that the land is placed in the category of assigned land and that the same cannot be registered as illegal, improper and incorrect.

5) The main ground urged by the learned Government Pleader for Revenue (AP) is that the petitioner has an alternative remedy of approaching the committee constituted pursuant to the Division Bench Judgment of this Court in W.A.No.720 of 2003, dated 01.05.2009, more so when the issue contains disputed questions of fact. It is further submitted that the issue as to whether the land is in the prohibitory list or not, cannot be adjudicated in this writ petition in view of pendency of earlier W.P.No.34611 of 2012. Having regard to the fact that it was an assigned land even by 1956, any purchases made by the petitioners subsequent thereto cannot be made the basis seeking registration of the same.

6) A perusal of the G.O. and the list of properties which are enclosed to the same do not indicate inclusion of Sy.Nos.1033/ 2A and 1033/ 2C. Even if the argument of the learned Government Pleader for Revenue is taken into consideration that the land in Sy.Nos.1033/ 2A and 1033/ 2C was carved out from Sy.No.25/ 1 as pleaded in the counter, but the same does not find place in G.O.Ms.No.215. There is no reference to either land in Sy.No.25 or Sy.No.1033/ 2A or 1033/ 2C in the G.O. issued by the Government showing the prohibitory list. Therefore, it appears that this issue raised specifically in this writ petition more particularly with regard to land shown in G.O.Ms.No.21 was never dealt with in the counter. Even during the course of argument except reiterating the points raised in the counter, no specific reply is given with regard to non-inclusion of the property in dispute in G.O.Ms.No.215.

7) Having regard to the above, a doubt arises as to whether the property which the petitioners and their predecessors claimed to be in possession since 1937, be described as "Gayalu". Hence, the writ petition is allowed. Insofar as W.P.No.34611 of 2012 is concerned, it is urged when an application for withdrawal was made, it was rejected stating that the said writ petition was already disposed of .

8) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

24.12.2018
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