

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.42310 of 2018

ORDER :

The case of the petitioner is that his grandfather served in the Indian Army as Sepoy and retired on 15.12.1970. He was assigned 5 acres of agricultural land in Sy.No.7 of Kommadi village of Visakhapatnam Rural Mandal under patta RC.No.208/1979, dated 09.12.1979. Since the date of assignment, the petitioner's grandfather was in possession and enjoyment of the land till his demise on 02.06.2011, thereafter, the petitioner's father succeeded to the property and was in possession and enjoyment of the same till his death on 23.07.2018. After the death of his father, the rights of land devolved upon the petitioner.

It is the case of petitioner that earlier, when his grandfather intended to sell the property, the 3rd respondent/Sub-Registrar refused to register the document. Therefore, his grandfather filed W.P.No.10362 of 2008, which was disposed of on 02.05.2008, directing the 3rd respondent to receive and process the document and also given liberty to the 3rd respondent to make an endorsement in the event of any objection to register. The 3rd respondent declared that the property has been in the prohibition list under Section 22-A of the Registration Act, 1908, and therefore, asked for production of no-objection certificate from the revenue authorities. Thereafter, the vendee of the property i.e. Sri Mudunuri Venkata Prudhvi Raju filed

W.P.No.29168 of 2014, challenging the action of 3rd respondent in insisting for no-objection certificate for registering the document. The said writ petition was disposed of on 25.09.2014, directing the petitioner therein to approach the 2nd respondent/District Collector for issuance of no-objection certificate in terms of G.O.Ms.No.307, dated 06.06.2013. Accordingly, the father of the petitioner submitted an application to the 2nd respondent for issuance of no-objection certificate. The 2nd respondent/District Collector notified in the Gazette, the lands assigned in favour of Ex-Servicemen and called for claims/objections from the public. In the said list, the land of petitioner was shown at serial No.109. Though no objections were received from any third party against the land of petitioner, the 2nd respondent/District Collector has not issued no-objection certificate so far.

It is the further case of the petitioner that Government, vide G.O.Ms.No.1117, Revenue (Assignment-I) Department, dated 11.11.1993, relaxed the conditions of assignments made in favour of Ex-Servicemen, as per which, the lands assigned in favour of Ex-Servicemen can be alienated after 10 years of such assignment. Thereafter, the Government issued G.O.Ms.No.307, dated 06.06.2013, stipulating the condition to obtain no-objection certificate from the District Collector concerned for alienation of such assigned lands. In supersession of said orders, the Government

further issued G.O.Ms.No.279, Revenue (Assignment-I) Department, dated 04.07.2016, clarifying that no-objection certificate is not required for alienation of lands assigned to the Ex-Servicemen and freedom fighters, after expiry of 10 years of such assignment, if there is no dispute with the Government and all such lands shall be deleted from the prohibitory list under Section 22-A of the Registration Act, 1908. In spite of the same, the 2nd respondent/District Collector has not issued no-objection certificate for alienation of petitioner's land by deleting the said land from the prohibition list. Aggrieved by the same, the present writ petition is filed.

Heard learned counsel for petitioner and the learned Assistant Government Pleader.

The District Collector already issued gazette notification which was published on 29.01.2016 calling for objections from 3rd parties for grant of no-objection certificate and the petitioner's father's name is found in the said notification. Further, the Government has already issued G.O.Ms.No.279, Revenue (Assignment-I) Department, dated 04.07.2016 stating that in whichever cases there is no dispute regarding assignment, the lands are to be deleted from the list of prohibited properties and production of no-objection certificate for alienation of such lands is also dispensed with. Having issued notification dated 29.01.2016,

the District Collector could have taken action on the same. Since no 3rd party objections are received in respect of petitioner's land and the petitioner has already made a representation, the 2nd respondent/District Collector is directed to take action on the representation of the petitioner and also in pursuance to the notification in Rc.No.3795/2007, dated 29.01.2006 within a period of two months from the date of receipt of a copy of this order for deletion of subject properties from the list of prohibited properties.

With the above directions, the writ petition is disposed of.
No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

23rd November, 2018

ajr

A. RAJASHEKER REDDY, J

