

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

SUO MOTU CONTEMPT CASE NO.2745 of 2017

IN/AND

WRIT PETITION No.40979 of 2017

COMMON ORDER:

Petitioner is the owner and possessor of land admeasuring Ac.0-31 cents in Sy.No.279/1, Ac.0-12 cents in Sy.No.288/1, Ac.0-17 cents in Sy.No.292/1, Ac.0-26 cents in Sy.No.296/1, Ac.0-27 cents in Sy.No.304/1, Ac.0-12 cents in Sy.No.305/1, Ac.0-10 cents in Sy.No.306/1, Ac.0-02 cents in Sy.No.307/4, and Ac.0-17 cents in Sy.No.309/1, admeasuring Acs.1-54 cents in all in Tiruchanur Village, Tirupati Rural & mandal, Chittoor District.

2. Petitioner purchased the said land under registered Sale Deed No.7376 of 1981 dt.19.12.1981 from Varadarajupeta Gopalaiah, Varadarajupeta Korriah, Rangaiah, Pillanapalem Peeroiah and Varadarajupeta Booshiah.

3. The said land originally belonged to Sri Hathiramji Mutt and the said Mutt had granted permanent (Saswatha) patta in favour of petitioner's vendors on 25.03.1939.

4. Petitioner's vendors applied for Ryotwari Patta under Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956, for the said lands and the then Inams Deputy Tahsildar, Chandragiri issued proceedings in I.E.No.303/77

dt.2012.1980 granting Ryotwari Patta to petitioner's vendors for the said land and another extent of Ac.0-16 cents i.e in all Ac.1.70 cts.

5. Petitioner intended to execute a Gift Settlement Deed on 01.09.2017 in favour of her son and approached the Sub-Registrar, Renigunta, Chittoor District(5th respondent) and requested to issue Market Value Certificate for the purpose of execution of the said document.

6. The 5th respondent then issued an Endorsement on 01.09.2017 stating that the above land is classified as Government Land, that there is no market value for the said land and that he would not receive the document presented by the petitioner for registration purposes.

7. Petitioner then obtained information from the web site of the Registration and Stamps Department of the State of Andhra Pradesh relating to details of prohibited properties of Tiruchanur village, which also indicated that the subject land was not notified under Section 22A of the Registration Act, 1908.

8. Petitioner contended that adjacent land in the very same survey numbers was transferred by way of sale and filed copies of the Encumbrance Certificates dt.01.09.2017 showing the same.

9. Petitioner had filed W.P.No.30085 of 2017 challenging the action of the respondents in not receiving, prosecuting and registering the Gift Settlement Deed and issuing letter dt.01.09.2017.

10. This Court dismissed the said Writ Petition on 08.09.2017 granting liberty to the petitioner to submit application before the District Collector along with all relevant documents in support of her claim including latest description of properties in the Registration Department website, and as and when such application is made, District Collector was directed to consider the request of the petitioner and take appropriate decision as warranted by law and communicate it to the petitioner by a reasoned order within a period of two (02) months.

11. Petitioner then filed an application/representation before the District collector on 23.09.2017 enclosing all the documents and requested to issue 'No Objection Certificate' for registration of Gift Settlement Deed.

12. Since no orders were passed in the said representation, petitioner filed the present Writ Petition to declare the action of the 5th respondent in issuing the letter dt.01.09.2017 and not receiving, processing and registering the Gift Settlement Deed executed by the petitioner on 01.09.2017 is illegal, arbitrary and violative of Articles 14 and 300A of the Constitution of India and Section 22A of the Registration Act, 1908 and for a direction to the 5th respondent to receive, process and register the same.

13. On 07.12.2017, the Government Pleader for Assignment took notice for the respondents and sought time to get instructions.

14. The matter was then listed on 13.12.2017 but again time was sought to obtain instructions. So, the Court issued 'Notice before admission' and having noted the order dt.08.09.2017 in W.P.No.30085 of 2017, and the fact that petitioner had preferred a representation as directed in the said order to the District Collector (2nd respondent) and that the 2nd respondent had done nothing to dispose of the said appeal, the Registry was directed to issue show-cause notice to the 2nd respondent to show cause why proceedings for suo motu Contempt of Court should not be initiated for his willful disobedience of the said order.

15. The said *suo motu* Contempt Case is numbered as *Suo Motu* Contempt Case No.2745 of 2017.

16. Thereafter, the District Collector, Chittoor issued Endorsement Roc.No.REV-FSECOHC(CNT)/1/2018 dt.03.02.2018 rejecting the representation of the petitioner dt.23.09.2017.

17. Petitioner then filed I.A.No.1 of 2018 seeking amendment of the prayer in the Writ Petition and the said amendment was ordered on 15.06.2018.

18. After the Amendment Petition was allowed, the matter was listed on 19.11.2018 and on that day, two weeks time was granted to the Government Pleader for Revenue(Assignment) to file a counter to the amended prayer in the Writ Petition. It was also made clear that if no counter affidavit is filed, the matter would be decided *ex parte*,

since more than five months had elapsed after the prayer in the Writ Petition was amended and also since the writ petitioner was a Senior Citizen aged 73 years, it was felt that the matter cannot be kept pending any further.

19. Matter was then listed on 04.12.2018, but no counter affidavit was filed to the amended prayer in the Writ Petition. Therefore, the right of the respondents to file counter affidavit was forfeited.

20. Contentions of the counsel for petitioner and the Government Pleader for Revenue(Assignment) appearing for respondents were heard and the contents of the counter affidavit filed in the Suomotu Contempt Case by the District Collector have been considered.

21. The main reason contained in the Endorsement dt.03.02.2018 issued by the 2nd respondent was that the Ryotwari Patta granted to the petitioner's predecessors in title was cancelled by the Commissioner, Survey, Settlement and Land Records, Hyderabad in 1982 on the ground that the Inams Deputy Tahsildar had not followed the provisions of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956.

22. Petitioner then applied under the Right to Information Act, 2005 on 19.02.2018 to the Special Commissioner, Survey, Settlement and Land Records, Vijayawada, Andhra Pradesh for the said order of the Commissioner, Survey, Settlement and Land Records, Hyderabad, on which reliance was placed by the 2nd respondent.

23. On 28.02.2018, a Memo Rc.No.A/249/2018 dt.28.02.2018 was issued by the Public Information Officer attached to the Office of the Commissioner and Director of Settlements, A.P., Vijayawada, stating that the information sought for by the petitioner was not available in his office.

24. However, District Collector, along with the counter affidavit filed in the *suo motu* Contempt Case No.2745 of 2017 enclosed an order dt.07.09.1982 in case No.V2/1556/82 passed by the Commissioner of Survey, Settlement and Land Records, A.P., Hyderabad, under Section 14A of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 allegedly canceling the Ryotwari Patta granted to the petitioner's vendors by the Inams Deputy Tahsidlar, Chandragiri.

25. A reading of the said order shows that it relates to one C.Viswanadam of Tiruchanur village in respect of survey Nos.400/1, 390/14, 395/19, 386/13, 361/1, 371/7, 368/25, 391/19, 372/1, 338/3, 374/6, 373/23 and 399/11.

26. None of these survey numbers mentioned therein relate to the land claimed by the petitioner.

27. This fact is not disputed by the Government Pleader for Assignment appearing for respondents.

28. It is therefore clear that the very basis of the order passed by the District Collector refusing to permit registration of the gift settlement deed submitted by the petitioner to 5th respondent is non-existent.

29. The District Collector in his order dt.03.02.2018 has also stated that the subject land is 'kaluva' land and there could not have been Ryotwari Patta granted in respect of the subject land, but the petitioner has disputed the same.

30. This contention of the District Collector also cannot be accepted because admittedly the Ryotwari patta granted to the petitioner's vendors by the Inams Deputy Tahsildar, Chandragiri on 20.12.1980 in proceedings I.E.No.303/77 has not been set aside by the Competent Authority under the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956. The District Collector is not the Competent Authority under the said statute to question or set aside the correctness of the orders passed under the said Act granting Ryotwari Patta to the petitioner's vendors. Moreover since almost 40 years have elapsed since it's passing, it is not open to the District Collector to seek to collaterally question the same without directly challenging it before the Competent Authority.

31. Therefore, it is clear that the District Collector without application of mind had rejected the request of the petitioner for issuance of NOC for registration by 5th respondent of the gift

settlement register executed by the petitioner. Therefore, the said order of the District Collector cannot be sustained.

32. So the Endorsement Roc.No.REV-FSECOHC(CNT)/1/2018 dt.03.02.2018 of the District Collector, Chittoor (2nd respondent) is set aside and it is declared that the subject land is not Government land and is the private land of the petitioner, that the petitioner is entitled to transfer it in any manner, and the respondents have no valid grounds to prevent him from doing so.

33. Accordingly the Writ Petition is allowed with costs of Rs.5,000/- to be paid by the respondents to the petitioner; the Endorsement Roc.No.REV-FSECOHC(CNT)/1/2018 dt.03.02.2018 passed by the District Collector, Chittoor (2nd respondent) is set aside; and the 5th respondent shall proceed to register the Gift Settlement Deed executed by the petitioner in favour of her son, after collecting the requisite stamp duty and registration charges, within a period of four (04) weeks from the date of receipt of a copy of this order.

34. As regards the Suo Motu Contempt Case No.2745 of 2017, though the District Collector did not pass orders on the petitioner's appeal dt.23.09.2017 within the two months period specified in the order dt.08.09.2017 in W.P.No.30085 of 2017 and passed the order dt.03.02.2018 three months late, the unconditional apology tendered in the counter affidavit for the delay in implementing the order is accepted and further proceedings are dropped.

35. Accordingly, the Suo Motu Contempt Case is closed. No order as to costs.

36. Consequently, Miscellaneous Petitions, pending if any, in both the Writ Petition and Suo Motu Contempt Case shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 31-12-2018

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