

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.11212 OF 2019

Date:28.08.2019

Between:

Saam A. Chinoy, S/o. Late Astad E. Chinoy,
Aged about 64 years, R/o.18-SA Palm Meadows,
Kompalli, Secunderabad and others .. Petitioners

And

The State of Telangana, Stamps and
Registration Department, Secretariat Buildings,
Secretariat, Hyderabad, rep., by its
Principal Secretary and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.11212 OF 2019****ORDER:**

Heard learned counsel for the petitioners, learned Government Pleader for Revenue for respondents 1 to 3 and Sri D. Narendra Naik, learned standing counsel for Central Government for respondent No.4.

2. Petitioners 1 to 3 claim that they are the owners of land in GLR No.625 in Cantonment area of Secunderabad forming part of Bungalow No.206. They entered into an agreement with petitioner No.4 to sell the remaining extent of land available in Bungalow No.206. Pursuant to their agreement, deed of conveyance was drafted and presented before the Sub-Registrar, Stamps and Registration Department, Bowenpalli, the 3rd respondent. The 3rd respondent received the document, but the same is kept pending by assigning pending document No.51 of 2019. Therefore, this writ petition is filed initially praying to declare the action of the 3rd respondent in not registering and releasing the pending document, as illegal. After filing of the writ petition, as the petitioners were communicated the decision refusing to register the document vide letter dated 25.06.2019, the prayer in the writ petition is amended challenging the said refusal.

3. From the averments made in the affidavit filed in support of the writ petition and counter affidavit filed by respondent No.4, it appears that there is dispute with reference to extent of land available in Bungalow No.206. According to petitioners, the total extent of land in Bungalow No.206 is Acs.11.50 guntas. The

original owner filed declaration under the provisions of the Urban Land (Ceiling and Regularization) Act, 1976. Further, they have also represented the retention of ceiling surplus land and accordingly the Government passed orders exempting the excess vacant land subject to its transfer to petitioner No.4 – society, subsequent sale to members of the society for constructing of houses. By tracing the history of flow of title, petitioners aver that the documents would disclose the extent of land as Acs.11.26 guntas, within the premises of the bungalow bounded by compound wall. The survey report and the entries made in GLR also reflect the land as Acs.11.26 guntas. According to petitioners, the Cantonment Board undertook survey in November, 2010 and as per the survey conducted, recorded extent of land as Acs.11.26 guntas.

4. Per contra, the stand of 4th respondent is that the assertion of petitioners that the total extent of land within the compound of bungalow No.206 is Acs.9.82 guntas only and that petitioners are wrongly claiming larger extent of land contrary to the records and the same is not valid in law. The counter affidavit also goes to the extent of contending even assuming that larger extent of land than what was originally recorded in GLR No.625 i.e., Acs.9.82 guntas is available, the excess land has to be treated as vests in the Cantonment Board.

5. The averments on this aspect are not clear. But, apparently, there is a claim and counter claim on the issue of total extent of land within the compound of bungalow No.206.

6. This issue need not detain consideration of the claim in the writ petition. Petitioners 1 to 3 entered into an agreement to sell the land which they claim belongs to them and is available within the compound of bungalow No.206 and petitioner No.4 – society has agreed to purchase the same. When a deed of conveyance is presented for registration, the registering authority is required to process the same in accordance with the provisions of Registration Act, 1908 and the Rules made thereunder. He can refuse to register a deed of conveyance if the property on which deed of conveyance is presented is included in the prohibited list of properties under Section 22-A of the Registration Act, if sufficient stamp duty or registration charges are not paid; the identification of the persons is not proved; and the pattadar passbook is not produced, if it is an agricultural land. Only within those parameters, the registering authority is required to process the document presented before him.

7. While that being so, after the document was presented before him for registration, the Sub-Registrar addresses the Defence Estate Officer to clarify as to whether the property in issue is included in prohibited list of properties. In response, a lengthy letter dated 15.04.2019, was written by the Defence Estate Officer dealing with various aspects of extents of land, declaration given under the Urban Land (Ceiling and Regulation) Act, 1976 and the actual extent of land available. However, from a reading of this letter, *prima facie* it appears that the Cantonment Board is not claiming the land as belonging to it and it is not included in the prohibited list of properties.

8. From the material on record, it appears that the subject land is treated as a private land. The Cantonment Board is not claiming any part of the land in issue as belonging to it. Therefore, the registering authority cannot enter into correspondence with Defence Estate Officer and reject the document presented for registration by referring to letter of Defence Estate Officer on extent of land. On the issue *inter se* between the petitioners and the Cantonment Board on the extent of land available physically in compound of bungalow No.406, it is for the petitioners and the Cantonment Board to work out their dispute and registering authority is no way concerned with that dispute.

9. It is settled principle of law that mere registration of a document evidencing deed of conveyance of right on a property claimed by vendor does not automatically confer right on the property on the vendee, if the vendor does not have valid title to the property. Therefore, the registration is only a proof of transaction between two parties to the document regarding transfer of ownership by way of sale consideration or otherwise and binding on the parties to the document. But, it does not, *per se*, automatically confer title on the vendee and passing on the title on a property depends on valid title vested in the vendor. Thus, it is for the parties to the document to assert their ownership claim to the extent of land available and not for the registering authority. Further, as long as the property is not included in the prohibited list of properties, the Defence Estate Officer has no jurisdiction to impose restrictions on the registering authority undertaking registration.

10. Thus, the Writ Petition is allowed and order impugned is set aside. The registering authority is directed to process the deed of conveyance presented before him, which was assigned pending document No.51 of 2019, strictly in accordance with the provisions of Registration Act, 1908. The document shall be processed without relying on the correspondence with the Defence Estate Officer, the 4th respondent, and if it is not included in the list of prohibited properties under Section 22-A of the Registration Act, 1908, register and release the document, if the same is otherwise in order. It is made clear that issue considered in the Writ Petition is only on the competency of registering authority on processing a deed of conveyance and no opinion is expressed on extent of land in bungalow No.206 and rival claims thereon and all the other aspects are left open. Pending miscellaneous petitions shall stand closed.

P. NAVEEN RAO, J

Date:28.08.2019

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