

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.38875 of 2017

ORDER :

The case of the petitioners is that originally one Syed Liaquat S/o.Syed Ahamed purchased the land admeasuring Ac.3-00 guntas in Sy.No.12/2 situated at Jelpalli Village, Balapur Mandal, Ranga Reddy District by way of registered sale deed document No.7074 of 2014, dated 14-08-1996 from his vendor viz., Hafix Mohammed Abdul Latheef (@ Mushtaq S/o.Moulana Hafeez Mohammed Waliulliah). Thereafter, his name has been mutated in revenue records and he was also issued pattadar passbook and title deed. Prior to that the vendor of Syed Liaquat was granted Lavoni Patta under Lavoni Rules, 1950 allotted the lands ordinarily by way of sale, in which there is no condition of non-alienability, it is only granted under Special Lavoni Rules. When said Syed Liaquat wanted to sell his land to the petitioners, the Sub-Registrar, Champapet, Ranga Reddy District has raised an objection that the above land was included under Section 22-A of the Registration Act (for short "the Act") and not entertaining the document. On that the petitioner filed WP.No.15977 of 2013 before this Court and this Court allowed the writ petition on 08-10-2013 directing the Sub-Registrar, Champapet, Stamps and Registration Department to complete the registration formalities and release the documents in accordance with the procedure. Thereby, said Syed Liaquat presented the

documents. The petitioners purchased land to an extent of Ac.2-28 guntas in Sy.No.12/2 situated at Jelpally Village, Saroor Nagar, Ranga Reddy District and thereafter, they filed application to mutate their names in respect of land in Sy.No.12/2 and the Deputy Collector issued proceedings No.B/132/2016, dated 13-05-2016 effecting the mutation in their favour. The petitioners wanted to sell the above land to the 3rd parties and approached the 5th respondent on 1-09-2017, then the 5th respondent informed them that their land is shown in the prohibitory list of alienation under Section 22-A of the Act. Though the 5th respondent was informed about filing of earlier writ petition and above proceedings, no action has been taken and the petitioners have filed a detailed representation on 25-10-2017 requesting the respondent-authorities to denotify their agricultural land by deleting from Section 22-A of the Act. But no action has been taken. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 4th respondent stating that the land in Sy.No.12 of Jalpally Village is recorded as 'Sarkari' and as per pahani for the year 2009-10, the Sy.No.12/1 admeasuring Ac.-05 guntas is recorded as 'Sarkari' and Sy.No.12/2 admeasuring Ac.3-01 guntas is recorded as 'assigned land', and the name of pattadar and possessor was recorded as Syed Liyaquat. As per the pahani for the year 2015-16, the Sy.No.12/1 admeasuring Ac.0-05 guntas is recorded as 'sarkari' and sy.No.12/2 admeasuring

Ac.3-01 guntas is recorded as 'assigned land' and the name of pattadar is recorded as Syed Liyaqath and the possession column is recorded as 'Plots' from which, it is clear that the subject land in Sy.No.12/2 admeasuring Ac.3-01 guntas is assigned land. It is also stated that as per Section 5 (2) of A.P.Assigned Lands (POT) Act, 1977 "Notwithstanding anything in the registration Act, 1908 no registering officer shall accept for registration of any document relating to the transfer of or creation of any interest in any assigned lands as furnished in the list under Sub-Section (1)". Further as per Section 22-A of the Act documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government". As such, the subject property is rightly included in the list of prohibited properties under Section 22-A of the Registration Act for prohibiting registrations.

Heard Sri M.S.Prasad, learned Senior Counsel for the petitioners, who, submits that the issue is already concluded in between the petitioners and respondents in earlier WP.No.15977/2013 and this Court directed the respondents to entertain the sale deeds and register the same. By virtue of the same, the petitioners purchased the subject property vide registered sale deed dated 08-05-2014 and in pursuance of the same, the names of petitioners were mutated. He also submits that even the vendor of the petitioners also purchased through registered sale deeds dated 14-08-1996 only and his name was

also entered in revenue records. But the respondents, by taking self-same pleas, are not receiving the documents for registration. He relied on the judgment of **Urban Improvement Trust, Bikaner v. Mohan Lal** (2010) 1 Supreme Court Cases 512). He also submits that when interim order was granted by this Court on 21-11-2017, the appeal in W.A.No.33 of 2018 was filed by the State and the same was remanded back for fresh consideration.

In this case assertions made in the writ affidavit and counter affidavit were already tested by this Court in earlier WP.No.15977/2013 and rejected the pleas of respondents by order dated 08-10-2013. By virtue of the said order, the petitioners purchased the subject property through registered sale deed vide document No.7070/2014, dated 08-05-2014 and thereafter, the names of the petitioners were also mutated vide proceedings No.B/132/2016, dated 13-05-2016. In the counter affidavit also, there is no denial about issuance of the said proceedings recording the names of the petitioners. The averments in the counter affidavit stated above are similar to the contentions raised in the earlier writ petition and the same were reproduced. The Apex Court in the judgment of **Urban Improvement Trust, Bikaner** cited supra held as under:

“ The Supreme Court has repeatedly expressed the view that Governments and statutory authorities should be model or ideal litigants and should not put forth false, frivolous, vexatious, technical (but unjust) contentions to obstruct the path of justice. It is a

matter of concern that such frivolous and unjust litigations by Governments and statutory authorities are on the increase. Vexatious and unnecessary litigations have been clogging the wheels of justice for too long, making it difficult for courts and tribunals to provide easy and speedy access to justice to bona fide and needy litigants. Statutory authorities exist to discharge statutory functions in public interest. They should be responsible litigants. They cannot raise frivolous and unjust objections, nor act in a callous and high-handed manner. They can not behave like some private litigants with profiteering motives. Nor can they resort to unjust enrichment. When glaring wrong acts by their officers are brought to their notice, for which there is no explanation or excuse, the least that is expected is restitution/restoration to the extent possible with appropriate compensation. Their harsh attitude in regard to genuine grievances of the public and their indulgence in unwarranted litigation requires to be corrected.”

The above facts goes to show that there is no justification for the respondents to continue the subject property in the list of prohibited properties and deny the execution of documents in respect of the same. Such practice of respondents in continuing the subject property in the list of prohibited properties after losing their battle in the earlier writ petition is deprecated.

It is to be seen that because of the laxity on the part of respondents, the petitioners had to approach this Court and wait all through. Though interim order was granted by this Court, the respondents still having not satisfied, preferred the writ appeal. All these facts go to show that the respondents

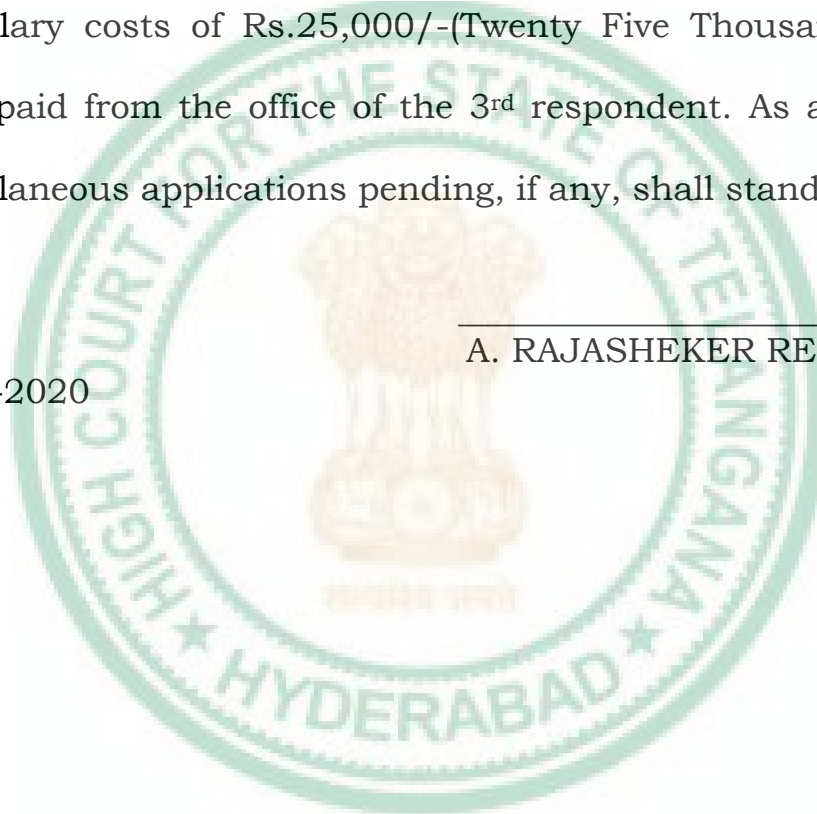
are only fighting vexatious litigation after losing the battle in the earlier writ petition.

The 3rd respondent, who, is the concerned authority ought to have taken steps for deletion of subject property from the list of prohibited properties. As he failed to take such steps, the petitioner was compelled to file the present writ petition.

In view of the same, the writ petition is allowed with exemplary costs of Rs.25,000/- (Twenty Five Thousand only) to be paid from the office of the 3rd respondent. As a sequel, miscellaneous applications pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

31-01-2020
Nvl



HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.97 of 2019



31.12.2019
(Msr)