

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.17079 of 2008

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents.

Aggrieved by the proceedings No.175/2008, dated 28.07.2008, issued by respondent No.3 refusing to receive the AGPA dated 09.07.2008 presented for registration, the present Writ Petition is filed.

A perusal of the impugned proceedings shows that the Sub-Registrar, Shamirpet, Ranga Reddy District, has refused to register the document presented by the petitioner on the following grounds:

“.. as per the prohibited register issued by Tahasildar (Shamirpet Mandal, R.R. District), vide G.O.Ms.No.786 Revenue (Reg-I) Dept dated 09.11.1999 and also as per the opinion of District Registrar, Ranga Reddy Dist (East) vide Memo No.2962/E/2008, Dated 17.07.2008 further the Sy No.84 to 86 of Thumukunta (V) are custodian lands, as revealed by the revenue record supplied by the MRO.”

On an earlier occasion, this Court while dealing with Writ Petition No.17764 of 2008 filed under similar circumstances wherein the writ petitioners therein proposed to sell an extent of Acs.10-00 guntas out of the total extents of Acs.24-24 guntas in

survey No.81 of Thumukunta Village, Shameerpet Mandal, Ranga Reddy District, but the Registering authorities refused to register the document. *Vide* order dated 24.04.2011, this Court has allowed the said writ petition. In the said order, dated 24.04.2011, this Court while reiterating the facts of the said case has observed that O.S. No.100 of 1968 was filed by one Rajaiah against the authorities of the Revenue Department and the District Collector was arrayed as defendant No.1 in that suit. In the written statement filed by the District Collector, it was specifically stated that though the custodian approved the sale in favour of the plaintiff (Rajaiah) for a sum of Rs.2300/-, the sale stood cancelled on account of the default committed by the plaintiff. Thereafter, the subject land was allotted by the custodian through a Sanad and the allottee was put in possession through Panchanama. The petitioner herein is claiming through one Sri Phatumal Kanwarmal, displaced person in respect of the land in survey Nos.84 to 86 of Thumukunta Mandal, Ranga Reddy District.

As seen from the record, while disposing of O.S. No.100 of 1968, the trial Court has held as under:

“.. It should be noted that the Regional Settlement Commissioner for Rehabilitation allotted the suit land and some other land of the evacuee to some refugees including D-3 herein granting Sanads and putting them in possession of their respective plots allotted to them.

Ex.B-4 is an allotment order dated 11.8.67 in favour of D-3 herein in respect of Survey Nos.81 to 87, besides some other lands. In pursuance of the allotment in Ex.B-4, the Tahsildar directed the concerned Revenue Inspector to hand over the allotted land which includes the suit land herein to D-3 in a letter dated 13.9.67, Ex.B-5. Ex.B-6 is a Sanad issued by the Managing Officer of the Ministry of Rehabilitation, Government of India, issued on behalf of the President of India to D-3 in respect of Ex.B-4 lands. It is further evidenced that in obedience to the directions of the Tahsildar Medchal in Ex.B5, the Revenue Inspector, Yamzal Circle under a cover of panchanama dated 14.9.67 and a rough sketch, as can be seen in Ex.B-1 to B-3 had recorded delivery of possession of Ex.B-4 lands to D-3 herein.”

The High Court *vide* order, dated 24.04.2011, passed in W.P. No.17764 of 2008 duly taking into consideration that the judgment and decree of the trial Court in O.S. No.100 of 1968 has been upheld by the appellate Court in A.S. No.114 of 1973, has observed that before the trial Court the only witness examined on behalf of the defendants in that suit was an employee of the revenue department, and it is through him, that the order of allotment, panchanama for delivery of possession, etc., were filed into the Court and were marked as Exs.B-1 to B-6 and the trial Court having accepted the version of the District Collector and the original allottee had dismissed the suit filed by the plaintiff (Rajaiah), and held as under:

“Section 22-A of the Act would apply only in respect of the lands, that are owned by the Government. Though a piece of land would vest in the Government, if it is an evacuee property, it ceases to be so with the allotment thereof, to an eligible refugee. The allottee becomes absolute owner and his right to enjoy the same cannot be curtailed in any manner. Failure of the revenue department to update their records cannot be a ground for the authorities of the registration department to wrongfully apply the prohibition contained under Section 22-A of the Act.”

In view of the findings of this Court given in the earlier writ petition being W.P. No.17764 of 2008 and for the reasons alike in the said order, the present Writ Petition is allowed setting aside the impugned proceedings No.175/2008, dated 28.07.2008 and consequently the Registering authority is directed to receive, register and release the documents, if any, presented by the petitioners herein in respect of the subject property.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 21.09.2022
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