

THE HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.25708 of 2014

ORDER:

The subject matter of writ petition is agricultural land in an extent of Ac.1.90 cents and Ac.1.96 cents covered by Sy.Nos.140-1 and 138 respectively of Nagareddipalli Village, Mudigubba Mandal, Anantapuram District.

The petitioner prays for Mandamus declaring the action of 4th respondent in not receiving and registering the document presented for the subject matter of writ petition and further insisting upon No Objection Certificate (NOC) from revenue authorities as illegal, arbitrary and unconstitutional. The petitioner prays for consequential direction to 4th respondent to receive the document presented for registration concerning the subject matter of writ petition and consider the same in accordance with the provisions of Registration Act, 1908 (for short 'the Act') and register the same.

The case of petitioner is that the subject matter of writ petition is patta land and the earliest transactions are covered by registered document No.1249/1940 and 520/1941. The petitioner intends to purchase the petition land from G.Velagala Venkata Ramudu and the Sub-Registrar/4th respondent is insisting upon production of NOC from Revenue Department. The grievance of petitioner is that production of NOC from Revenue Department is illegal and requirement is without authority. The subject matter is not included in assigned list maintained by the 3rd respondent and the 4th respondent can prohibit registration if the document presented for registration covers a property included under one or the other circumstance under Section 22-A of the Act. Hence, the writ petition.

The 3rd respondent filed counter affidavit and the reply of 3rd respondent is as follows:

"His contention is totally false one since there are no transactions in the lands in possession during the years 1940 and 1941. As per Government memo 21307/Assn.I(1)/2012-2, dated 09.05.2012, no objection certificate is essentially required for effecting the registration of any purchase of assigned land."

As regards the registration of document, the specific reply is that there is no sale transaction concerning the subject matter of writ petition. Therefore, the refusal by 4th respondent is tenable and within the four corners of law.

Learned counsel appearing for the parties have reiterated the stand in the affidavit and counter affidavit filed by the respective parties.

The issue is whether the refusal to receive the document for the subject matter by the 4th respondent can be justified or not.

After perusing the material available on record and having regard to the fact that the view taken by this Court in a series of decisions on enjoyment of rights through registered deeds prior to 1954, I am of the view that the refusal by 4th respondent either on the ground that the subject matter is included in RSR as dots or that the same is Government land is un-sustainable. The burden is on the 3rd respondent to show that a particular land is assigned land or that the grant in favour of an assignee is with a condition of non alienability, or that one or the other circumstance stated in Section 22-A of the Act is attracted. The 3rd respondent has failed to discharge the burden. In the particular fact situation of this case, it is evident that the reply is filed by 3rd respondent without even ascertaining whether registered deeds are in existence prior to 1954 or not. The refusal to entertain a document is untenable.

The petitioner is given liberty to present the document for registration before the 4th respondent. The 4th respondent is directed to consider the document for registration of subject matter without insisting upon NOC from Revenue Department and if the document is otherwise complaint, the orders for registration are passed.

With the above direction, the writ petition is ordered. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V. BHATT, J

Date: 07.04.2015

KLP

