

(2012) 02 AP CK 0083

In the Andhra Pradesh High Court

Case No : Writ Petition No : 31960 of 2010

M. Sunanda Reddy and Others

APPELLANT

Vs

The District Collector, Chittoor District, Chittoor. The Revenue Divisional Officer Tirupathi (Urban), Tirupathi Chittoor District, The Tahsildar, Tirupati (Urban) Mandal, Tirupathi, Chittoor District and The Sub Registrar, Registration and Assurances, Renigunta, Chittoor District

RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 — Section 11
Land Acquisition Act, 1997 — Section 22, 4(1), 6
Registration Act, 1908 — Section 22A

Citation : (2012) 4 ALT 3

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P. Sridhar Reddy, for the Appellant;

Judgement

L. Narasimha Reddy

1. Of late, the Government, particularly in the Revenue Department; is resorting to steps, which, if resorted to by private individuals, are prone to be treated as instances of baseless and unlivable claims Section 22-A of the Registration Act (for short "the Act"), introduced through A.P. Act 19 of 2007 has become handy. The result is that a spate of litigation has emerged in the context of requiring the registering authorities to entertain or process the documents, which, in the ordinary course, does not lead to any litigation, whatever. One Sri Vadivelu was granted ryotwari patta in respect of 10 acres of land in Sy.No. 119/2 of Upparapalli Village, Mangalam Group, Tirupati Urban Mandal, Chittoor District, in the year 1979. Fair Adangal was also issued in his name. Thereafter, he sold the property in favour of one Sri Guruvareddy through four sale deeds in the year 1978-79. The land was divided into plots by Guruvareddy and the petitioners

purchased plots in the year 1979. They intended to sell the properties. The petitioners approached the Sub-Registrar, the 4th respondent herein with a request to furnish the market value, stamp duty and registration charges in respect of the plots held by them. The 4th respondent refused to furnish the said information on the ground that the land in Sy.No. 119/2 figured in the list of Government lands, furnished by the revenue authorities. Thereupon the petitioners approached the Tahsildar, Tirupati (Urban) Mandal, the 3rd respondent, with a request to issue No Objection Certificate. The 3rd respondent issued endorsement dated 14-08-2010 to the effect that the land is classified as "Pagullasthalam" and that request for issuance of No Objection Certificate cannot be considered. The petitioners feel aggrieved by the same.

2. On behalf of the respondents, a counter-affidavit is filed. It is stated that once the land is described as Government land in the revenue records, the prohibition contained u/s 22-A of the Act operates, and the petitioners cannot insist on furnishing of No Objection Certificate. It is also stated that the petitioners have to work out the remedies, vis-?-vis the classification of the land.

3. Sri P. Sridhar Reddy, learned counsel for the petitioners submits that once the ryotwari patta was granted under the A.P. Estates Abolition and Conversion into Rythwari Act, 1948, the pattadar becomes absolute owner and the land does not partake any element of Government's interest. He contends that recognising Vadivelu as the absolute owner, the Government sought to acquire the land along with other extents by issuing a notification u/s 4(1) of the Land Acquisition Act, way back on 02-06-1997, and for one reason or the other, the acquisition did not fructify. Learned counsel submits that the description mentioned in the endorsement, or in the counter-affidavit does not find place in any provision of law.

4. Learned Government Pleader for Revenue, on the other hand, submits that, as of now, the property is described as "Pagullasthalam", which means that if belongs to Government, and as long as the classification remains, the prohibition contained u/s 22 of the Act would operate.

5. The petitioners assert that the patta in respect of the land in Sy.No. 119/2 was issued u/s 11(a) of the A.P. Estates Abolition and Conversion into Rythwari Act, 1948, way back in the year 1979 in favour of one Vadivelu. The issuance of patta results in preparation of fair adangal. The petitioners have filed a copy of the fair adangal in respect of the land in Sy.No. 119/2. Added to that, the District Collector, Chittoor, issued notification under Sections 4(1) and 6 of the Land Acquisition Act in the year 1997, proposing to acquire vast extent of land for the purpose of construction of a new railway station, electrical sub-station and facilities for the pilgrims of Tirumala Tirupati Devasthanams. The land in Sy.No. 119/2 was mentioned at Sl. No. 28. That only shows that the Government and in particular, the revenue department recognised the absolute ownership of Vadivelu over the said land. The acquisition did not fructify.

6. The original owner i.e. Vadivelu sold the land in favour of Guruvareddy and from him, the petitioners purchased the plots. The basis for the 4th respondent to refuse registration is the list furnished by the 3rd respondent, in which, the land in Sy.No. 119/2 was included. Normally, once a particular survey number is included in the list furnished by the revenue authorities, the effected party must be required to pursue the remedies for change of classification. However, when the record itself discloses that the very inclusion is untenable and there is error apparent on the face of the record, the aggrieved party cannot be subjected to the ordeal of pursuing the remedies, which, in turn, are not referable to any particular statute. At any rate, the so-called description namely, "Pagullasthalam" does not, by itself, bring about the land under the purview of the Government. At the most, it may depict the physical feature of the land. No provision of law is cited in support of the contention, that the said description would lead to the conclusion, that the land belongs to the Government.

7. Viewed from any angle, the action of the respondents cannot be countenanced. Hence, the writ petition is allowed, and the impugned order is set aside. The 4th respondent is directed to furnish necessary information in relation to the document, that may be presented by the petitioners, without applying Section 22-A of the Registration Act.

8. The miscellaneous petition filed in this writ petition also shall stand disposed of. There shall be no order as to costs.