

(1995) 12 AP CK 0001
In the Andhra Pradesh High Court
Case No : Writ Petition No. 8235 of 1995

Mallaram Govindamma and Another

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 07-12-1995

Acts Referred:

Registration Act, 1908 — Section 17

Citation : (1995) 3 ALT 870

Hon'ble Judges : B.S.A. Swamy, J

Bench : Single Bench

Advocate : P.S. Narayana, for the Appellant; G.P. for Revenue, for the Respondent

Final Decision : Allowed

Judgement

B.S.A. Swamy, J.—The petition was filed, by the petitioners, two in number, questioning the action of the 3rd respondent in not registering the sale deeds executed by them in favour of one Sridhar Kumar or his nominees under the guise that the Collector and Joint Collector gave certain instructions not to register any transaction affecting the Government lands. This writ petition was filed on 24-4-1995, and thereafter, I granted several adjournments to the Government Pleader to file the counter affidavits on behalf of respondents 1 and 2 viz., District Collector and Joint Collector, Chittoor. My efforts to get the information from these two Officers with regard to the state of affairs relating to these lands in question did not yield fruitful results. At the same time, the Sub Registrar, 3rd respondent filed his counter wherein he categorically stated that the Government issued instructions in Memo No. 1608/U2/87-1 Revenue (U) Department, dated 22-5-1987 not to register any transaction affecting Government lands and as the list furnished by the Mandal Revenue Officer, Tirupati, shows the lands in question held as Government lands, he did not register the sale deeds executed by the petitioners. From the averments made in the affidavit filed in support of the writ petition, it is seen that an extent of 91

cents in Survey No. 246/1 and another extent of 2.00 acres in Survey No. 246/2 are situated in Vedantapuram Estate. After the estate was abolished in the survey operations conducted by the Government, while the first petitioner was given ryotwari patta for 91 cents in Survey No. 246/1, the mother-in-law of the 2nd petitioner was given patta to an extent of 2.00 acres in survey No. 246 /2 by the Additional Assistant Settlement Officer by his orders dated 12.09.1974 and 31-8-1974 respectively pursuant to these orders, the necessary entries were made in the revenue records implementing the orders of the Additional Assistant Settlement Officer. Thereafter, the petitioners were also given Pass Books under A.P. Record of Rights Act, 1971. Since then the petitioners were in possession and enjoyment of the lands by paying the necessary taxes, cesses etc., to the Government from time to time.

2. Both the petitioners having decided to sell the lands for family necessity, entered into agreement with one D. Sridhar Kumar on 4-2-1995 to sell the lands in question and for consideration mentioned in the agreement of sale and two months thereafter when they tried to execute regular sale deeds for conveying the property to Sridhar Kumar or his nominees, the Sub Registrar, Tirupathi, refused to register the sale deeds for the aforesaid reasons.

3. In the counter filed by the Sub Registrar, it was stated that the Government issued a Memo dated. 22-5-1987 not to register any transaction affecting the Government lands. Admittedly, as this memo issued by the Government is applicable to She Government lands all over the State and for implementing these orders, the Revenue Authorities are expected to conduct an. enquiry and identify the lands belonging to the Government. It is need less to observe that in the course of conducting the enquiry, the persons that are going to be affected by any orders passed by these Officers are entitled for show cause notice to put forth their pleas and then only the officer concerned can pass appropriate orders whether the lands belong to the Government or private individuals and serve a copy of the same to the concerned person so that he may carry the matter in appeal, if he is aggrieved by the order. Admittedly, in this case, no enquiry was conducted before the Mandal Revenue Officer, informing the 3rd respondent that the land in question is a Government land.

4. From the facts stated above it is clearly established that the lands are ryoti lands and the petitioners are the pattadars of the lands in question. It is not known how either the Mandal Revenue Officer or the Collector or Joint Collector, claim that the land belonged to the Government. If they are having any information otherwise than the information available in the Revenue records, they would have conducted an enquiry and pass appropriate orders but that was not the case here. Innumerable opportunities given to the Collector and Joint Collector to put forth their case, how they treated this land as Government Land did not yield any results and ultimately the Government Pleader expressed his inability to assist this Court in the absence of the required co-operation from the officials concerned.

5. In the circumstances stated above, I hold that the Collector or the Joint Collector and their subordinates are not entitled to claim the lands in question as Government lands and the memo given by the Mandal Revenue Officer specifying the survey numbers in Vedantapuram village to the extent of petitioners' lands is declared as invalid and the authorities cannot act upon that memo to that extent. My brother Justice B. Subhashan Reddy, while admitting the writ petition by order dated 25-4-1994 in W.P. No. 10301/95 in W.P.No.8235/95 directed the 3rd respondent to receive the documents presented by the petitioners and to verify the correctness of the Stamp Duty and Registration charges and on verification, if he satisfies that proper Stamp Duty and registration (sic) charges were paid, to give pending registration number to the documents. He also made it clear, giving pending registration number will not give any right to the alienee.

6. In the light of the view taken by me, the Sub Registrar is directed to register the sale deeds and deliver the conveyance deed/deeds to the alienees concerned that is D. Sridhar Kumar or his nominees in whose favour the lands were registered. The Sub Registrar should deliver the documents to the alienees within two weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition is allowed with costs. Advocate fee Rs. 500/-.