(2009) 03 AP CK 0065

In the Andhra Pradesh High Court

Case No : Writ Petition No. 24170 of 2008

P. Suresh and Another APPELLANT

Vs

A.P. State and Others RESPONDENT

Date of Decision : 25-03-2009

Acts Referred:
Registration Act, 1908 — Section 22A

Citation : (2009) 3 ALD 802 : (2009) 3 ALT 419 : (2009) 2 APLJ 178

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : K. Rama Mohan Mahadeva, for the Appellant; G.P. for Revenue, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—Strange are the ways, in which the authorities of the Revenue Department would defeat the rights of the citizens. To trample upon the rights, they would go to any extent. If any instance is needed, this writ petition provides for one.

2. One Sri Mamillapalli Subbaiah and Mallkka were the owners of Ac.5.03 cents of land in Survey No. 602 of Proddutur Village in the year 1932. Transactions in relation to that land took place in the years 1935, 1939, 1944, 1945 and 1963 through different sale deeds. The petitioners purchased about Ac. 1.13 cents of land from different persons or agencies through sale deeds dated 14.03.2006, 18.04.2006 and 03.03.2008. They intended to sell the land to others. For this purpose, they approached the Office of Joint Sub-Registrar-I, Proddutur, 3rd respondent herein either for collecting necessary information or for presentation of documents. They were however informed that the Tahsildar, Praddutur, 2nd respondent herein addressed a letter dated 09.09.2008 to the District Collector, 1st respondent herein stating that as per the revenue records, the land in Survey No. 602 belongs to Government and on that basis, 3rd respondent refused either to furnish information or to accept the documents. The petitioners feel aggrieved

by the action of the respondents.

3. On behalf of the respondents, a counter affidavit is filed. It is admitted that from the year 1932 onwards, several transactions have taken place and land is recorded as patta. The possession of the private individuals over the land is also admitted. However, by making mention to an R.S.R. of the year 1909, it is sought to be pleaded that the land belongs to Government.

4. Heard the learned Counsel for the petitioners and the learned Government Pleader for Revenue.

5. The petitioners have mentioned series of transactions in relation to the land, which took place before they purchased Ac.1.13 cents in Survey No. 602. The 3rd respondent himself registered the documents in favour of the petitioners as recently as in the years 2006 and 2008. When it came to the question of sale, sought to be made by the petitioners, reliance is placed upon the letter dated 09.09.2008 said to have been addressed by the 2nd respondent to the 1st respondent, which reads as under:

I invite kind attention to the reference cited and I herewith submit the list of Government lands identified as per the Revenue Records maintained in the office of the Tahsildar Proddatur in the format prescribed after thorough verification of the Revenue Records. The revised and final list of the Government lands in the form of hard and soft copies are herewith submitted for making further action.

One of the items mentioned in the schedule is the one in Survey No. 602 admeasuring Ac.5.03 cents. Its'' classification is shown as ''AW.

6. Had it been a case, where the land is held by Government, the prohibition contained u/s 22-A of the Registration Act would have certainly operated. It however needs to be mentioned that the ownership vis-a-vis the property claimed either by the Government or by private individuals is not an abstract concept and it must satisfy its own indicia. In their counter affidavit, the respondents stated inter alia as under:

The records of Sub-Registrar, Proddatur are verified in the register of holding which is maintained by the Sub-Registrar in year of 1914 there are register transaction took place from the year 1932 onwards treating this Sy No. as patta land. The entire extent of 5.03 acres was sold to different persons at different times. Now physically on ground the private persons are in enjoyment of the land.

7. In the next sentence, it is averred that the registrations are held up by applying the prohibition contained under the A.P. Assigned Lands (Prohibition of Transfers) Act 9 of 1997. The only basis pleaded by the respondents is the R.S.R. prepared by the Revenue Department and printed in the year 1909. It appears that the respondents have taken the state of affairs to remain the same for a century, notwithstanding the change of regimes and change of Governments.

8. From their own admission, it is evident that the respondents have not only

recognized the sales, which took place from the year 1932, but also have made entries in the revenue records depicting the land as patta. In all fairness, they have admitted the possession of the respective owners upon the land. Further, at no stage, they have made any semblance of claim, much less have initiated steps to recover the land. They were obviously aware that almost for one century, the land is treated as patta and is under the enjoyment of private individuals. The view taken by the 2nd respondent in his letter vis-a-vis the above land as well as the action of the 3rd respondent in not accepting the documents presented by the petitioners would constitute the typical example of arbitrariness of very high order. It was these very authorities that entertained or permitted the sales in favour of the petitioners as recently as in the year 2008. Wisdom appears to have dawned upon them thereafter, may be for wrong reasons.

9. For the foregoing reasons, the writ petition is allowed and it is held that the land in Survey No. 602 shall be treated as patta land and the 3rd respondent shall entertain the sale deeds that may be presented by the petitioners, without reference to any prohibition contained under any enactment vis-a-vis the said land. There shall be no order as to costs.