
(2012) 11 AP CK 0096

In the Andhra Pradesh High Court

Case No : Writ Petition No. 36402 of 2012

S. Shankaraiah and Others

APPELLANT

Vs

District Registrar and Others

RESPONDENT

Date of Decision : 27-11-2012

Acts Referred:

Citation : (2013) 2 ALD 778 : (2013) 3 ALT 502

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : Naresh Reddy Chinnolla, for the Appellant;

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—The inaction of respondent No. 2 in refusing to register the land admeasuring Acs.30-00 in Survey No. 277/1 of Bhutkur Village, Khadem Mandal, Adilabad District, is assailed in this writ petition. An extent of Acs.60-00 of Government Land in Survey No. 277/1 of Bhutkur Village was permitted to be assigned in favour of one Mohammed Yousuf, who was an ex-serviceman vide Government Memo No. 1-2-III/3801/60-1, dated 21.12.1960. In pursuance thereof, respondent No. 5 issued Proceeding No. G/3920/63, dated 6.6.1963, assigning the land in favour of the said person subject to the condition of his paying a total amount of Rs. 3,000/- (Rs.50/- per acre) payable in 20 instalments in terms of G.O. Ms. No. 1070, dated 20.6.1961. After the death of the original assignee, his son viz., Mohd. Ibrahim succeeded thereto. Out of the entire extent of Acs.60-00 of the assigned land, an extent of Acs.30-00 was sold to one Sama Ananthaiah by Mohd. Ibrahim and the remaining extent of Acs.30-00 was continued in his possession.

2. When Mohd. Ibrahim was sought to be dispossessed from the Acs.30-00 of land in his possession, he has filed WP No. 11996 of 1996, which was disposed of by this Court, by order, dated 25.6.1996, with a direction to the respondents therein not to dispossess the petitioner from the land in question without

following the due process of law. Thereafter, proceedings for resumption under the provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "the Act"), were initiated in respect of the said Acs.30-00 of land. The said proceedings culminated in passing of an order of resumption on the ground that the said land was in possession of one person viz., G. Narayan Reddy in contravention of the provisions of the Act. Assailing the said order, Mohd. Ibrahim filed WP No. 25289 of 1997. The said writ petition was allowed by this Court by order, dated 14.2.2007. This Court, on appreciation of the facts, held that the assignment made in favour of the original assignee did not contain the same conditions, which were made applicable to the assignments made to the landless poor persons and that therefore, the provisions of the Act were not attracted. This Court has taken note of the further fact that the assignment was made as per G.O. Ms. No. 1070, 20.6.1961, and that in the absence of any clause relating to prohibition of alienation containing therein, the assignment did not fall within the provisions of the Act. This Court has, thus, allowed the said writ petition and set aside the resumption order, dated 7.9.1997.

3. With regard to the balance Acs.30-00 of land, which was sold to Ananthaiah, when the revenue authorities refused to mutate the lands in favour of the legal heirs of the said Ananthaiah, they have filed WP No. 10082 of 1992 wherein a similar plea was raised by the legal heirs of Ananthaiah as was raised by the son of the original assignee in WP No. 25289 of 1997. This Court disposed of the said writ petition by order, dated 14.6.2004, with the direction to the District Collector, Adilabad, to hold a comprehensive enquiry on all aspects and pass appropriate order as to the entitlement of the petitioners therein for patta and for the consequential action of mutation in the revenue records. The petitioners have filed report, dated 7.1.2011, of respondent No. 6 addressed to respondent No. 5 wherein he has inter alia stated that the then Tahsildar, Kaddam, has issued pattadar passbooks and title deeds to the legal heirs of Ananthaiah in pursuance of the registered sale deed, dated 22.4.1965. In spite of the above noted facts, which clearly reveal that the land assigned to the ex-servicemen on market value was not treated as a regular assignment within the provisions of the Act 9 of 1977 and the specific declaration by this Court to that effect by order, dated 14.2.2007, in WP No. 25289 of 1997, the revenue authorities are still treating the land in question as regular assignment prohibiting its alienation. Having regard to this stand of the revenue officials, respondent No. 2 has been refusing to register the documents. By this unreasonable action of the respondents, the petitioners, who were stated to have purchased the subject property under an agreement of sale from the legal heirs of Ananthaiah, are prevented from registering the sale deeds. This, in my opinion, is wholly without justification. The overzealous attitude of the revenue officials and the registering authorities even in cases of this nature has been causing untold hardship to the citizens. This is one such case where despite the unequivocal pronouncement of this Court, the respondents are still maintaining a very unreasonable stand that the subject land is an assigned land containing prohibition on alienation. Such an

attitude on the part of the respondents is not only leading to avoidable litigation but also causing severe harassment to the general public. It is time that the Principal Secretaries, Revenue and Stamps & Registrations, take stock of the situation and issue appropriate instructions to the revenue officials and the registering authorities not to object to or refuse registrations in a routine and mechanical manner without there being legally sustainable reasons for such objections/refusals.

4. Subject to the above observations, the writ petition is allowed. Respondent No. 2 is directed to receive the documents that may be presented by the petitioners and register the same subject to the latter complying with the provisions of the Registration Act, 1908, and the Indian Stamp Act, 1899. As a sequel, WPMP No. 46237 of 2012, filed by the petitioners for interim relief, is disposed of as infructuous.