
(2010) 07 AP CK 0123

In the Andhra Pradesh High Court

Case No : Writ Petition No. 6067 of 2010

Syed Munaf and Others

APPELLANT

Vs

Revenue Divisional Officer and Others

RESPONDENT

Date of Decision : 02-07-2010

Acts Referred:

Andhra Pradesh Assigned Lands (Prohibition of Transfer) Rules, 1977 — Rule 4
Registration Act, 1908 — Section 22A

Citation : (2011) 1 ALD 137 : (2010) 3 APLJ 134

Hon'ble Judges : P.V. Sanjay Kumar, J

Bench : Single Bench

Advocate : D. Seshasayana Reddy, for the Appellant; Government Pleader for Revenue, for the Respondent

Judgement

P.V. Sanjay Kumar, J.—The Petitioners complain of inaction on the part of the Sub-Registrar, T. Sundupalli, Kadapa District, Respondent 3, in registering the documents presented by them and in insisting upon production of a "No Objection Certificate" from the revenue authorities. They seek a consequential direction to register and release the said documents without insisting on such certification by the revenue authorities.

2. Petitioner 1 claims title and possession over an extent of Ac.0.60 cents in Survey No. 364/ID of Pemmadapalle Village, Rayachoty Sub-Division, Kadapa District. He traces title to this property to a registered transaction dating back to the year 1950. Petitioners 2 to 12 claim to be the legal heirs of late Dada Sab who purchased an extent of Ac.0.85 cents in Survey No. 364/ 1C of Pemmadapalle Village, Rayachoty Sub-Division, Kadapa District, under a registered sale deed bearing Document No. 2387/1977 dated 21.7.1977. They also are in a position to trace the lineage of the title back to a registered transaction of the year 1933. The grievance of the Petitioners is that when they approached the registration authorities seeking to alienate their lands, they were informed that the same are Government lands and hence no document would be

entertained for registration in respect thereof without the approval of the revenue authorities. Ergo, this writ petition.

3. The Tahsildar, Rayachoty Mandal, in the counter filed on behalf of himself and the Revenue Divisional Officer, Kadapa, admitted that the lands claimed by the Petitioners were subjected to alienations as stated by them dating back to several decades. It is their case that the Village Account R.S.R. of Pemmadaipalle Village reflects that the land in Survey No. 364 is classified as Government land (Assessed Waste) and therefore the same has been included in the list of Government lands communicated to the registration authorities under Rc. No. A/386/2006 dated 24.11.2006. Reference is made to Rule 4 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (for brevity, "the Rules of 2007") in this regard.

4. Prohibition of registration of documents as permitted by law is relatable to Section 22-A of the Registration Act, 1908. Insofar as Government lands are concerned the prohibition is traceable to Clause (e) of Section 22-A:

22-A. Prohibition of Registration of certain documents:(1) The following classes of documents shall be prohibited from registration, namely:

(a) ...

(b) ...

(c) ...

(d) ...

(e) any documents or class of documents pertaining to the properties the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, Local Bodies, Educational, Cultural, Religious and Charitable Institutions, those attached by Civil, Criminal Revenue Courts and Direct and Indirect Tax Laws and others which are likely to adversely affect these interests.

(2) For the purpose of Clause (e) of Sub-section (1) the State Government shall publish a notification after obtaining reasons for and full description of properties furnished by the District Collectors concerned in the manner as may be prescribed.

5. Thus, for the legal embargo to come into operation there must be a notification issued by the State Government detailing the lands in which it has interest. Admittedly, no such notification has been issued in the present case.

6. As regards the plea of the Respondents that Rule 4 of the Rules of 2007 has operation in the present case, the said Rule may be examined. Rule 4 reads as under:

4. The District Collector or the Authorised Officer not below the rank of Mandal Revenue Officer/Tahsildar shall furnish the particulars of lands assigned in his

jurisdiction in Form No. III to the Registering Officer concerned, within (forty five) 45 days from the date of commencement of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Act, 2007 and further continue to furnish such particulars in the same proforma whenever new assignments are made from time to time.

Bare perusal of the aforesaid Rule demonstrates that it pertains to furnishing a list of assigned lands falling within the jurisdiction of the District Collector/ Tahsildar, as the case may be. The said Rule does not authorize the revenue authorities to furnish a list of lands which they claim to be Government lands basing on the entries in the revenue records. In the present case, except for stating that entries in the Village Account R.S.R. of Pemmadaipalle Village indicate the land in Survey No. 364 as Government land, there is no other basis for the revenue authorities to stake a claim over the lands. To the contrary, the evidence on record, being registered transactions dating back to 1933, clearly negates the unilateral claim of the revenue authorities that this land is Government land. It is of course for the Government to assert and prove its title if it chooses to do so, in a properly constituted proceeding before the appropriate forum in accordance with law. Without doing so, it is not open to the revenue authorities or the registration authorities to deny persons claiming rights over such land on the basis of mere revenue entries. The action of the Respondents in treating the subject land as Government land and the action of the registration authorities in refusing to receive and register documents in respect of this land is therefore unsustainable in law. I find support for my view in the Judgments of this Court in *P. Suresh and Another Vs. A.P. State and Others*, *K.M. Kamulla Basha v. District Collector, Chittoor* 2009 (3) ALD 385; *Meda Subbarayudu v. Sub-Registrar, Rayachoty* W.P. No. 11675 of 2008 dated 30.7.2008 and *S. Zakhir v. District Collector, Anantapur* W.P. No. 19419 of 2008 dated 16.2.2009.

7. The writ petition is accordingly allowed holding that there is no legal basis for the registration authorities in insisting upon a "No Objection Certificate" from the revenue authorities as a condition precedent for entertaining any document for registration once the prohibition u/s 22-A of the Registration Act, 1908 does not come into operation. It is not open to the registration authorities to treat any particular land as Government land basing on the mere communication to that effect by the revenue authorities which, in turn, is based on mere entries in the revenue records. There shall be a consequential direction to the Sub-Registrar, T. Sundupalli, Kadapa District, Respondent 3, to entertain the documents presented by the Petitioners in respect of their lands in Survey Nos. 364/ID and 364/1C of Pemmadaipalle Village, Rahachoty Sub-Division, Kadapa District and process the same for registration in accordance with law. No costs.