
(2009) 02 AP CK 0015

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 11119 and 11203 of 2008

T. Radha Bai and Others

APPELLANT

Vs

District Registrar and Others

RESPONDENT

Date of Decision : 27-02-2009

Acts Referred:

Registration Act, 1908 — Section 22A, 22A(1)

Citation : (2010) 1 ALT 32

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : L. Prabhakar Reddy, for the Appellant; G.P. for Revenue, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—The petitioners in W.P. No. 11119 of 2008, who are said to be the absolute owners and possessors of 940 square yards of land in premises bearing No. 6-4-110/B of Siddipet, entered into a development agreement with the petitioner in W.P. No. 11203 of 2008, which is a construction company, for construction of a residential complex. After construction, the petitioners presented sale deeds dated 18.07.2007 before the Sub-Registrar, 2nd respondent herein for registration. He refused to register the documents through his endorsement, dated 10.12.2007, on the ground that the Revenue Divisional Officer and the Tahsildar, Siddipet, respondents 3 and 4 herein have addressed letters to the effect that the land over which the building was constructed belongs to Government. The petitioners carried the matter in appeal before the 1st respondent. The appeal was rejected through order dated 22.01.2008. The same is challenged in these writ petitions.

2. The petitioners urge that the building was constructed over a place, where a residential house is existing since 1967 and that at no point of time, respondents 3 and 4 have taken steps against the owner thereof. The attention of the Court is drawn to an order passed in W.P. No. 1402 of 2007 filed by the petitioners in W.P.

No. 11119 of 2008.

3. On behalf of the respondents, a counter affidavit is filed. It is stated that the verification of the revenue records discloses that the land, where the building was constructed is owned by the Government and in view of Section 22-A(1)(b) of the Registration Act (for short "the Act"), the transfer of such lands is prohibited.

4. Heard Sri L. Prabhakar Reddy, learned Counsel for the petitioners in both the writ petitions and the learned Government Pleader for Revenue.

5. Almost a similar dispute was dealt with by this Court in W.P. No. 1402 of 2007. A development agreement, dated 23.11.2006 presented by the petitioners therein for registration was not registered by the 2nd respondent, on the same objection raised by respondents 3 and 4. At that time, Section 22-A of the Act was in a different form. This Court took the view that respondents 3 and 4 do not figure anywhere in the scheme of Section 22-A of the Act and in that view of the matter, their objections cannot be taken into account. The writ petition was allowed through orders dated 05.02.2007 and the document has since been registered.

6. The sale deeds presented by the petitioners is in respect of flats constructed over the same property. It is no doubt true that Section 22-A of the Act has since been replaced with different content. The prohibition against registration operates even in the absence of a notification by the Government in certain cases. In case, the property is owned by the Government, the prohibition attracts by operation of Section 22-A(1)(b) of the Act.

7. Strictly speaking, the very appeal to the 1st respondent was untenable. The reason is that the ground, on which the registration of document was refused, was not traceable to the provisions of the Indian Stamp Act or the Registration Act or the Rules made thereunder. The 1st respondent is not conferred with the power to adjudicate upon the issues or disputes that arose out of Section 22-A of the Act.

8. Coming to the merits of the matter, it is not even disputed that the building was constructed over a plot of land, on which there existed a house from the year 1967. The claim made by respondents 3 and 4 is on the strength of certain entries. Even assuming that the entries reflect that the land belongs to Government, it hardly constitutes the basis for title. Undisputedly, when the Government did not enjoy any rights of possession for the past 4 decades, much less did it make any claim for it, respondents 3 and 4 cannot be permitted to prevent registration. Apart from the entries in the revenue records, there must be some factual basis for the prohibition contained in Section 22-A(1)(b) of the Act to operate. The record doesn't disclose that respondents 3 and 4 have ever issued any notices against the petitioners in W.P. No. 11119 of 2008 or their predecessors, when the property was being enjoyed for the past more than four decades.

9. Therefore, the writ petitions are allowed and the 2nd respondent is directed to process the documents without reference to the objections raised by respondents 3 and 4. There shall be no order as to costs.