

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.30291 OF 2015

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ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

With the consent of both sides, this Writ Petition itself is heard and being disposed of by this order.

The petitioner is aggrieved by the refusal order passed by the Joint Sub-Collector, Inkollu Village & Revenue Mandal, Prakasam District, the 3rd respondent, and further confirmation thereof by the District Registrar, Ongole, Prakasam District, the 2nd respondent, under the impugned orders. The petitioner presented a document for registration, which was admitted as Ex.P1 on 07.10.2010. But, under Ex.P2 - the refusal endorsement of the 3rd respondent, dated 27.07.2013, the registration was refused only on the ground that in a suit in O.S.No.129 of 2006, the suit boundaries and the boundaries of the document in question are found to be tallying. Therefore, it was concluded that the property dealt with in the document in question is suit schedule property in the said suit. The appellate authority, the 2nd respondent, confirmed the said order on appeal on the same ground.

Learned counsel for the petitioner, while questioning both the said orders, has produced a copy of the decree in O.S.No.129 of 2006, pending before the Principal Junior Civil Judge, Parchur, which was disposed of on 07.12.2006. Neither the petitioner herein, nor his vendors are parties to the said suit and the suit is merely a suit for permanent injunction and the plaint schedule property therein is to an extent of 302½ sq. yards in Survey No.253/2 as per the boundaries of the sale

deed, whereas the schedule of the document in question is to an extent of 302 sq. yards in Survey No.253/2 in Ward No.9 bearing Door No.153.

The boundaries in the said suit schedule and the boundaries of the document in question are entirely different. In the suit schedule, towards East, Parchur R & B road is mentioned, whereas in the document in question, eastern boundary is shown as old Madras Road. Similarly, in South side of the suit schedule, site belonging to Gottipati Venkateswarlu is shown, whereas in the document in question, it is shown as open place of Maddineni Srinivasarao. Further, to the West side, site belonging to Naidu Rajendra Prasad is shown in the suit schedule, whereas in the document in question, the open place of Maddineni Hanumantha Rao is shown. Lastly, to the North side, Galli is mentioned in the suit schedule, whereas Public Street is shown in the document in question. Apart from non-tallying of the boundaries in the suit schedule, the fact is the said suit was merely a suit for permanent injunction, which was already decreed as early as on 07.12.2006 and neither the petitioner, nor his vendors are parties. The impugned orders of both the authorities are, therefore, passed without application of mind and, hence, the same are liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned orders are set aside. The document in question, which is pending for registration, shall now be re-examined by the 3rd respondent and if the same is in conformity with the provisions of the Registration Act, 1908 and the Indian Stamp Act, 1899, he shall register and release it in accordance with the due procedure. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

07.10.2015

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