

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**WRIT PETITION No. 26657 of 2011**

**ORDER:**

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

With the consent of both the parties, the writ petition is disposed of at the admission stage.

The present writ petition came to filed seeking issuance of a writ of mandamus declaring the action of the third respondent in insisting to produce fresh NOC under the proceedings Lr.No.Nil/2011 dated 27.06.2011 to register the documents submitted by the petitioner relating to the land admeasuring Ac.0.05 cents situated in Sy.No.766/1 of Chinna Chowku Village, Kadapa District, as illegal and arbitrary; and consequently direct the third respondent to register the document.

The averments in the affidavit filed in support of the writ petition are as under:

Pursuant to an application made by the husband of the petitioner, who is an Ex-Service Man, the second respondent issued a sanction order in respect of land admeasuring Ac.0.05 cents situated in Sy.NO.766/1 of Chinna Chowku village and thereafter DKT Patta vide DKT No.1863/1382 dated 12.12.1972 was also issued. Thereafter, the husband of the petitioner constructed an oblong hut in the said land and stayed there for a considerable period. After the death of the husband of the petitioner, the writ petitioner along with her children, are staying in the said hut. Due to financial requirements and to meet the medical expenses of the petitioner, she intended to alienate the said house site to third

parties. It is stated that there is a Government Order contemplating the assignees under Ex.Military Quota to alienate their grants after ten years from the date of assignment. The petitioner entered into a sale agreement with third party and the purchaser insisted the writ petitioner to obtain clearance certificate from the concerned authorities. Accordingly, when the writ petitioner approached the third respondent through a letter dated 13.06.2011, he is said to have insisted for an NOC from the second respondent though the petitioner enclosed NOC dated 29.10.1984 given by the Tahsildar, Kadapa. Pursuant there to, the petitioner gave a representation to the second respondent asking him to issue the fresh NOC but the second respondent failed to issue the NOC. Questioning the action of the third respondent in insisting fresh NOC, though there was NOC dated 29.10.1984, the present writ petition is filed.

Third respondent filed counter stating that the petitioner has not presented any document for registration and if any document is presented it will be processed as per the Registration Act. The averments in the counter are silent as to the insistence of the NOC.

In reply, the learned counsel for the petitioner would submit that the allegation of petitioner not presenting any document for registration is not correct and infact an order of insistence for NOC came to be passed when the said document was presented for registration.

A perusal of the material placed before the Court more particularly the order passed by the Tahsildar, Cuddapah, dated 29.10-1984 would show that the husband of the writ petitioner, who is an Ex-Service man, was granted land admeasuring Ac.0.05 cents in Sy.No.766/1 of Chinna Chowk Village. Para No.4 of the order disclose that the husband of the writ petitioner was permitted to sell away his assigned house site admeasuring Ac.0.05 cents in

Sy.No.766/1 of Chinna Chowk Village. Further, the representation dated 13.06.2011 would clearly indicate that the petitioner presented the documents for registration and the order dated 22.06.2011 passed by the Joint Sub-Registrar would show that he refused to register the document in the absence of NOC. Therefore, the material on record clearly discloses that in the year 1984 itself the husband of the writ petitioner was permitted to sell the assigned land admeasuring Ac.0.05 cents situated in Sy.No.766/1 of Chinna Chowk Village. Such being the position, the question of again securing fresh NOC would not arise. In fact, the counter filed by the third respondent does not anywhere refer to the rejection of the documents due to absence of NOC.

Having regard to the facts and circumstances of the case, the writ petition is allowed, directing the third respondent to process the documents submitted by the petitioner in respect of land admeasuring Ac.0.05 cents situated in Sy.No.766/1 of Chinna Chowk Village, in accordance with law, without insisting for fresh NOC. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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**JUSTICE C. PRAVEEN KUMAR**

11.08.2015

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