

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1061 OF 2015

ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the 5th respondent in issuing proceedings in Rc.No.3 of 2014, dated 02.12.2014, addressed to the 7th respondent requesting him to take necessary action under Section 71(1) of the Registration Act, 1908, against the documents presented by the petitioner in respect of the lands in Survey No.5/4 of Gudepu Valasa Village, Bhogapuram Mandal, Vizianagaram District, without having authority and in contrary to the common order passed by this Court in WP.No.14151 of 2014 and batch, dated 18.07.2014, which was confirmed in Writ Appeal (SR) No. WAMP.No.2759 of 2014 and WA (SR) No.130179 of 2014 and WAMP.No.2757 of 2014 & Writ Appeal (SR) No.130182 of 2014, dated 04.09.2014, as illegal and arbitrary and consequently to set aside the said proceedings of the 5th respondent and to direct the 7th respondent to entertain the documents presented by the petitioner for the purpose of registration.

The case of the petitioner is that the petitioner is the absolute owner and possessor of the property in an extent of 1200 Sq.Ys. bearing Plot Nos.127, 128, 129, 136, 137 and 138 (each plot is 200 sq.ys.) situated in Survey No.5/4 of Gundepuvalasa Village, Bhogapuram Mandal, Vizianagaram District. The said property was purchased by the petitioner from his vendor Sri P.Venkateswara Rao on 14.08.2012, vide registered document bearing No.4493 of 2012 on the file of the 7th respondent. The

petitioner also obtained permission from the VUDA, vide permission No.LP No.27/2013, dated 27.03.2014, for conversion of his land from agriculture to non-agriculture. While so, when the petitioner approached the 7th respondent with regard to market value of the property with a view to execute a sale deed, the 7th respondent rejected to issue the market value certificate stating that there is a prohibition of registration in respect of the lands in survey No.5/4 and that they are not entertaining the documents for registration purpose. The petitioner further submits that the subject lands do not fall within the prohibition contained under Section 22-A of the Registration Act as there is no Gazette publication to that effect. It is also stated that the Tahsildar, Bhogapuram has issued proceedings dated 18.04.2011 and 10.01.2014, declaring that the land in extent of Ac. 23.40 cents in Survey No.5/4 of Gudepuvalasa Village does not belong to Government/Assignment/LCC/Endowments Department. The petitioner further submits that aggrieved by the action of the 7th herein respondent in refusing to register and release the documents relating to the land in different plot numbers in the same survey number of the present writ petition he filed writ petitions and the said writ petitions were disposed of by this Court, by its common order dated 18.07.2014, directing the 7th respondent to receive and process the documents in accordance with the provisions of the Indian Registration Act, 1908 and Indian Stamp Act, 1899, if the documents are otherwise in order.

The petitioner further submits that the above said writ petition was disposed of basing on the report given by the 3rd respondent herein, which was sent to the 6th respondent, wherein it was informed that the land in Survey No.5/4 of Gudepuvalasa

Village, is 'Zeroyithi' land and is not the land prohibited by notification under Section 22-A of the Indian Registration Act, 1908 and basing on the said report, the 6th respondent issued a memo No.G4/791/2014, dated 30.06.2014 informing the 7th respondent herein to follow the clarification issued by the 3rd respondent and also the orders of the Commissioner and act accordingly, whenever documents are presented by the parties in respect of the lands in Survey No.5/4 of Gudepuvalasa Village.

Aggrieved by the common order dated 18.07.2014, passed by this Court in WP.No.14151 of 2014 and batch, the 5th respondent herein preferred an appeal and the Division Bench of this Court by its common order dated 04.09.2014 dismissed WAMP.No.2759 of 2014 and WA (SR) No.130179 of 2014 and WAMP.No.2757 of 2014 & Writ Appeal (SR) No.130182 of 2014 at SR stage even without granting leave to the appellant therein, observing that if at all the 5th respondent herein has any right over the property, it is left open to it to approach appropriate forum and seek its redressal including cancellation of the registered documents, if any.

Suppressing all the above said facts the 5th respondent issued the impugned proceedings and requested the 7th respondent to take necessary action under Section 71(1) of the Indian Registration Act, 1908. It is further submitted that the 5th respondent even without making any preliminary enquiry with regard to the appeals filed by it, have issued the impugned proceedings though the appeals were dismissed in the month of September, 2014, itself. The petitioner further submits that the 8th

respondent under personal capacity has issued paper news, which was published in 'SAAKSHI' daily newspaper of Vizianagaram District Edition, dated 12.01.2015, wherein he proclaimed that the purchase and sale transactions in respect of the lands in question are not valid. Aggrieved by the action of the 5th and 8th respondents present writ petition is filed.

Learned counsel for the petitioner submits that the impugned proceedings dated 02.12.2014 are issued contrary to the common order of this Court in WP.No.14151 of 2014 and batch, dated 18.07.2014 which was confirmed by the Division Bench of this Court by a common order dated 04.09.2014, in WAMP.No.2759 of 2014 and WA (SR) No.130179 of 2014 and WAMP.No.2757 of 2014 & Writ Appeal (SR) No.130182 of 2014.

Learned counsel for the petitioner further submits that the present property which is the subject matter of the present writ petition also falls in the same survey number which was subject matter in the earlier writ petitions i.e. WP.No.12151 of 2014 and batch and covered by the common order passed in by this Court in those writ petitions which was confirmed by the Division bench of this Court in WAMP.No.2759 of 2014 and WA (SR) No.130179 of 2014 and WAMP.No.2757 of 2014 & Writ Appeal (SR) No.130182 of 2014. In spite of the above, the 5th respondent issued impugned proceedings.

Heard learned Standing Counsel for the 5th respondent who has not disputed the disposal of the earlier writ petitions which was confirmed by the Division Bench of this Court.

A perusal of the common order passed in WP.No.14151 of

2014 and batch shows that the learned single Judge directed to receive the documents for registration in respect of the lands in Survey No.5/4 of Gundepuvalasa Village, Bhogapuram Mandal, Vizianagaram District and the same was confirmed by the Division Bench of this Court.

The subject matter of the present writ petition is also the lands in Survey No.5/4 of Gudepu Valasa Village, Bhogapuram Mandal, Vizianagaram District. A perusal of the facts in the earlier writ petition and the facts in the present writ petition go to show the subject matter of writ petition is covered by orders passed in by this Court in the earlier writ petition No.14151 of 2014 and batch which was confirmed by the Division bench of this Court in WAMP.No.2759 of 2014 and WA (SR) No.130179 of 2014 and WAMP.No.2757 of 2014 & Writ Appeal (SR) No.130182 of 2014. In view of the same, the impugned proceedings dated 02.12.2014 addressed by the 5th respondent are set aside and the 6th and 7th respondents are directed to receive the documents presented by the petitioner for the purpose of registration and process the same as per the provisions of the Registration Act, 1908 and Rules made there under.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

27.01.2015

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