

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 29103 of 2015

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 main writ petition itself is heard at the admission stage.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent Nos.2 and 3 in insisting no objection certificate from respondent Nos.4 and 5 for registration of land admeasuring 584 square yards in Plot No.5, D.No.506/2 of Guntur Municipal Corporation Area, Guntur, as illegal, arbitrary and violative of principles of natural justice; and consequently direct respondent Nos.2 and 3 not to insist the petitioner for no objection certificate from respondent Nos.4 and 5.

The short question that arises for consideration is the insistence of no objection certificate from the revenue authorities for the purpose of receiving and processing the document for registration.

The grievance of the petitioner is that though the property which is subject matter of dispute is a private property, respondent Nos.2 and 3 are insisting for production of "no objection certificate" from respondent Nos.4 and 5 for registration, which according to her is contrary to the provisions of law.

Issue identical to the case on hand came up for consideration before this Court in **G.Narasaiah and another v. State of A.P.**^[1] wherein a Division Bench of this court held as under:

"The Sub-Registrar concerned cannot refuse to entertain the document even before it is presented for registration and as and when such document is presented for registration, the

Registrar has to examine the same in terms of the provisions of the Registration Act and if for any reason he is not satisfied, he has to give a refusal endorsement with reasons, which is required to be recorded in Book 2 maintained by the Registrar. Such refusal endorsement undoubtedly is appealable. Thus, the Registrar cannot decline to accept the document on its presentation to him.

The ratio of the said decision was reiterated by another Division Bench in W.A.No.1653 of 2013 dated 01.10.2013, wherein it was held that “the department cannot insist on production of no objection certificates as there is no provision of law and that the Government officials must act in accordance with the provisions of law and not by any other self styled imposition of norms. Thus, the demand for production of no objection certificate is nothing but an arbitrary action and this sort of action should be dealt with firm hand. Consequently, a direction was issued to the registering authority that no government official shall act or take action in any manner unless that official concerned is authorized by law. Accordingly, the no objection certificate, which has hitherto been asked for registration of the document, shall not be demanded any more unless it is authorized by an appropriate enactment with prospective effect and not retrospective effect.” The said decision was also followed by a learned single judge of this court in W.P.No.16003 of 2015 and batch dated 09.06.2015 and in W.P.No.17809 of 2015 and batch dated 22.06.2015.

In the light of the ratio laid down, the writ petition is disposed of directing respondent Nos.2 and 3 to receive and process the documents presented by the petitioner without insisting upon no objection certificate from respondent Nos.4 and 5. The registering authority concerned is further directed to receive and process the document in accordance with the Registration Act, 1908 and Indian Stamp Act, 1899 and if the document is in conformity with the provisions, register and release the document in accordance with due procedure. It is also made clear that in the event of registering authority not being satisfied with the

compliance under the Registration Act or the Stamp Act, appropriate refusal endorsement together with reasons shall be recorded and communicated to the parties in terms of Section 71 of the Registration Act. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

08.09.2015
gkv

[\[1\]](#) 2011 (13) ALT 415 (DB)