

THE HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.23859 of 2013

Oral Order :

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

The subject matter of the present writ petition is 3.66 cents in Sy.No.561/B1 of Jammalamadugu Village and Mandal and the same is further identified with Municipal House No.2/97 and 2/98, Bank Colony, Jammalamadugu. The petitioner prays for Mandamus declaring the action of the 3rd respondent in not receiving and registering the sale deed for the subject matter of the writ petition as illegal and contrary to the scheme of the Indian Registration Act, 1908. The petitioner prays for a consequential direction to the 3rd respondent to receive and register the sale deed sought to be presented for the subject property.

Sri L.J.Veera Reddy, learned counsel for the petitioner submitted that the action of the 3rd respondent in refusing either to receive or register a document for the subject land amounts to abdication of the duty under the Registration Act. The subject matter of land cannot be treated as falling under any of the circumstances under Section 22(A) of the Registration Act. By referring to various material papers, the learned counsel tries to persuade the Court to issue appropriate direction to the 3rd

respondent to receive and register the document.

The learned Government Pleader appearing for the 3rd respondent while replying to the case of the petitioner that the subject matter is a property belonging to the Endowment Department, justifies refusal to receive the document. Learned Government Pleader further submits that the jurisdiction of this Court under Article 226 of the Constitution of India is invoked without cause of action. He places strong reliance upon the following counter averments.

“ 9). It is humbly submitted that so far the petitioner herein has not presented any document for Registration, if the above subject land, therefore the present Writ Petition is premature. If the petitioner presents any document this respondent will receive and process it in accordance with Indian Stamp Act, 1899 and Registration Act, 1908. Therefore, the allegation made by the petitioner herein that this respondent has not received the document is totally false and baseless. Unless and until the petitioner presents the Document the cause of action do not arise therefore the Writ Petition is liable to be dismissed.”

The 2nd respondent herein filed counter affidavit bringing to the notice of this Court about the pendency of the Writ Petition No.29422 of 2011.

Heard the learned counsel for the petitioner and the respondents.

From the material available on record and particularly having regard to the nature of the prayer in the present case, what is required to be examined is whether the petitioner has approached the Court with cause of action or against a

substantial grievance to consider the real issue in the matter. Section 22-A of the Registration Act prohibits registration of certain types of documents falling within the scope of said section. Had it been a case that the 3rd respondent has been considered facts in issue and an opinion is expressed, the conclusion of the 3rd respondent can either be matter of an appeal or judicial review under Article 226 of the Constitution of India. From the material available on record, it is abundantly clear that without presenting the document for registration, the petitioner prays for Mandamus declaring the alleged action as illegal and contrary to the provisions of the Registration Act. While assailing the alleged in-action, the petitioner tries to persuade this Court to consider the material prima facie, record findings and issue appropriate direction to the 3rd respondent to receive and register the document.

Having considered the definite stand of the 3rd respondent, I am not inclined to exercise jurisdiction on the lines suggested by the learned counsel for the petitioner. In the opinion of this Court, the writ petition is premature and it is accordingly dismissed.

The 3rd respondent in the counter affidavit has stated that as and when the document is presented for registration the 3rd respondent will consider the document so presented under the provisions of the Indian Stamp Act 1899 and Registration Act, 1908 and pass appropriate orders.

With the above observation, the writ petition is dismissed.

No order as to costs.

JUSTICE S. V. BHATT

Dt: 3.3.2015

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