

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.18134 of 2015

ORDER:

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

This writ petition is directed against the endorsement issued by the 3rd respondent on 12-01-2015, whereby the document dated 19-06-2013 presented by the petitioner was not accepted in view of the provisions of Sections 23 to 25 of the Indian Registration Act, 1908 (for short 'the Act') and Rules 36 to 40 of the Indian Registration Act, 1908.

Necessary facts, in brief, are as follows:-

The petitioner entered into an agreement of sale with one Sri G.Kameswara Rao on 18-03-2005 with respect to the land admeasuring Ac.0-31 cents in R.S.No.122/1B, 122/2 of Nidamanuru Village, Vijayawada Rural Mandal, Krishna District. Since the vendor did not perform his part of contract, the petitioner filed a suit in O.S.No.829 of 2012 before the Principal Senior Civil Judge, Vijayawada, seeking specific performance of agreement of sale, dated 18-03-2005. The said suit was decreed on 22-11-2012 directing the defendant therein to register regular sale deed in favour of the petitioner within 30 days. The petitioner states that in compliance of the said decree, the defendant-judgment debtor executed a sale deed on 19-06-2013 in his favour through a Special Power of Attorney vide Doc.No.60/2013. The said document was presented for registration on 18-10-2013 by the petitioner together with demand draft for Rs.3,60,000/- drawn in favour of the 3rd respondent. The petitioner, however, states that the 3rd respondent declined to receive the said document and prior to 18-10-2015, the petitioner could not present the document on account of NGOs strike for a period of two months in view of bifurcation of the State. In the meanwhile, it appears that the defendant-judgment debtor cancelled the power of attorney vide document No.167/13, dated 11-10-2013.

The document presented by the petitioner on 18-10-2013 having not

been accepted, the petitioner made a representation to the Inspector General of Stamps and Registration and by order of the Inspector General, dated 02-01-2014, the 3rd respondent was asked to enquire into the matter and submit a report. The petitioner was called upon to appear personally on 30-04-2014 and accordingly he appeared on that day. Thereafter, the 3rd respondent issued the impugned order declining to register the document.

Learned counsel for the petitioner has produced a copy of the sale deed presented for registration as referred to above and also copy of the demand draft showing that the entire stamp duty and registration charges of Rs.3,60,000/- were paid on 18-10-2013.

Since the petitioner has paid the stamp duty and registration charges on 18-10-2013 and states to have presented the document for registration, there is no reason to disbelieve the statement of the 3rd respondent under the impugned order, particularly as the copy of the demand draft is produced before this Court. When the 3rd respondent did not physically accept the document, the petitioner had to make representation to the Inspector General of Stamps and thereafter, the document was entertained. However, it has to be accepted that the petitioner has effectively presented the document on 18-10-2013. Further, there were disturbances on account of bifurcation and the strike done by the NGOs for a long period of time also cannot be controverted. The 3rd respondent, therefore, has to take into consideration all these aspects while considering the petitioner's request for registration of the document. In stead, however, the document presented is straight away rejected on the ground that it is barred by time under Section 23 of the Act.

In my view, the 3rd respondent has to appreciate the circumstances and reasons on account of which the petitioner was prevented from presenting the document. Even if the Registrar is not satisfied, the provision of Section 25 could have been invoked by him and appropriate penalty could have been recovered from the petitioner in the event of his not being satisfied with the reasons for non-presentation earlier.

That apart, another intervening circumstance of cancellation of Special

Power of Attorney under Document No.167/2013 by the defendant/judgment debtor is also a matter, which is required to be taken into consideration by the Registrar. Though the Special Power of Attorney document is cancelled subsequent to execution of sale deed, if the sale deed is registered, it naturally relates back to the date of execution as provided under Section 47. In my view, therefore, the rejection of the document presented merely on the ground that it is barred by limitation under Section 23, cannot be justified and it is obviously contrary to the provisions of the Registration Act. Even otherwise, under Rules 36 to 40, it is open for the registering authority to call upon and examine the person connected to the document to satisfy himself about the execution of the document, but the 3rd respondent has rejected the document under the impugned endorsement. In my view, therefore, the petitioner, in whose favour, a decree from the Civil Court exists for specific performance, is justified in seeking registration of the document in accordance with law and as such, the Registrar must examine the document on merits and deal with the registrability of the same in accordance with law.

The impugned endorsement is accordingly set aside and the petitioner's document for registration shall be represented by him and the 3rd respondent shall examine it afresh, in the light of the observations made hereunder, and he shall take appropriate steps in the matter expeditiously, preferably within four weeks from the date of receipt of a copy of this order.

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

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

VILAS V.AFZULPURKAR, J

Date: 24-06-2015

Prv

