

**IN THE HIGH COURT OF JUDICATURE
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

FRIDAY THE TWENTYTHIRD DAY OF JANUARY
TWO THOUSAND AND FIFTEEN

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 37939 OF 2012

Between:

K. Poorna Chandra ... Petitioner

V/s.

The Sub-Registrar,
Tirupati,
Chittoor district & Ors. ... Respondents

Counsel for the Petitioner : Sri T. Rajendra Prasad

Counsel for the Respondents : Govt Pleader for Revenue
Sri P. Durga Prasad

The court made the following : [order follows]

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ORDER:

The petitioner prays for mandamus declaring the action of first respondent in refusing to register sale deed for the property in an extent of 223-05 sq.mts. in survey No.11/2-B/2, Akkarampalle, Tirupathi Urban, Tirupathi, Chittoor district, as illegal and as well amounts to refusing to exercise the jurisdiction under the Registration Act, 1908 [Central Act 16 of 1908].

2. The case of petitioner is that fourth respondent was the owner of subject property referred to above. The petitioner through registered sale deed dated 23/10/2009 has purchased the property for a valid consideration from the fourth respondent. Thus, the petitioner claims to have become absolute owner and possessor of the property. Incidentally, it is stated that the subject matter of the writ petition was and is private property and Government does not have interest in the same. The circumstances by reference to which the first respondent refused to register are required to be stated. Fourth respondent, it is averred stood as guarantor for principal borrower in a chit transaction with the third respondent. As the principal borrower committed default in payment of chit subscription, the third respondent filed ARC.No.

1044 of 2010 before the Arbitrator. The Arbitrator at the first instance conditional order of attachment dated 15/12/2010 attaching the properties of principal debtor and also the guarantor was passed, as the security was not furnished, the attachment was made absolute through order dated 06/10/2012. The order of attachment was communicated to the first respondent by the third respondent. The first respondent by referring to the attachment effected by Arbitrator in ARC.No. 1044 of 2010 declined to entertain the document presented for registration of subject matter of the writ petition. Hence petition.

3. The first respondent filed counter-affidavit and refers to the happenings before Arbitrator in ARC.No. 1044 of 2010 and receipt of order from the third respondent. To justify refusal of registering the document, the first respondent refers to G.O.Ms.No. 497, Revenue [REG-I] Department dated 07/4/2003 and contends that according to instant instructions, if an order of a court is communicated to the Sub-Registrar, the Sub-Registrar is under legal obligation to refuse registration. To appreciate the legal objection, the GO is extracted :

AMENDMENT

In the Standing Order 219, for clause (b), the following shall be substituted namely :-

“(b) If the Andhra Pradesh High Court restrains a person from alienating a property and

if such orders are brought to the notice of the Registering Officers or served on the Registering Officer, the Registering Officer is estopped from going ahead with the Registration.”

4. Section 22 [a] among the other situations or circumstances provides for refusal by Registering Authority to register a document present for registration. Admittedly, the case on hand does not cover any of the circumstances referred to either under section 22 [a] of the Act.

5. The first respondent places reliance on the Standing Order No. 219. Standing Order No. 219 is applicable where the High Court restrains a person from alienating the property and the order of High Court is brought to the notice of Registering Officers and on intimation of such prohibitory or restraint order to keep in line with the prohibition granted by the court the Registering Officers were empowered to refuse registration.

6. In the case on hand, the petitioner purchased the property from fourth respondent through registered sale deed dated 23/10/2009. The Arbitrator in ARC.No. 1044 of 2010 attached the properties shown in schedule appended to the ARC 1044 of 2010. As noted earlier, the attachment is subsequent to the purchase of property by the petitioner. Without appreciating the implication of attachment by the Arbitrator in ARC.No.1044 of 2010 and also the effective date of operation the first

respondent has given undue importance to the communication of third respondent and declined to register the document which amounts to illegal exercise of duty by the first respondent. Further the attachment of property is misunderstood as injunction restraining a party from alienating the suit property. The reasons for refusal to register can't be subscribed to statutory or executive orders.

7. The writ petition is allowed. The first respondent is directed to receive the document for the subject matter if presented, consider the same in accordance with the provisions of Stamp/Registration Act and if it is other wise in order, register the document.

7. The writ petition is allowed. No order as to costs.

8. As a sequel, Miscellaneous Petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT.

23/01/2015
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