

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

WRIT PETITION No.8294 of 2016

ORDER:

The petitioner filed this Writ Petition challenging the order of 3rd respondent dt.29-02-2016 (Refusal Order No.1) refusing to register the document P.No.26/2016 dt.17-02-2016.

2. Petitioner had presented the said document before 3rd respondent for registration and by impugned order, the 3rd respondent had refused to register it stating that the property mentioned therein is a Christian Education property and the District Collector, Kurnool had informed him that such properties need to be protected by not entertaining registrations.

3. In the counter affidavit of 3rd respondent, reliance is placed on Section 22(A)(1)(c) of the Registration Act, 1908 (for short "the Act"), which states:

"22-A Prohibition of Registration of certain documents:

(1)

(a)

(b) ...

“(c) Documents relating to transfer of property by way of sale, gift, exchange or lease exceeding ten years in respect of immovable property owned by Religious and Charitable Endowments falling under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 or by Wakfs falling under the Wakfs Act, 1995 executed by persons other than those statutory empowered to do so”

4. A reading of the above provision indicates that the property which is the subject matter of the document which is presented for registration before 3rd respondent does not fall under the category of property belonging Religious and Charitable Endowments coming under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 or property belonging to a Wakf falling under the Wakfs Act, 1995. Merely because a letter was addressed by the 2nd respondent to protect the properties in question, it is not open to 3rd respondent to ignore the provisions of Section 22 of the Act and refuse to register the document.

5. Therefore the impugned order is clearly contrary to the provisions of the Act and is vitiated by non-application of mind by mind by 3rd respondent.

6. The Writ Petition is allowed and the impugned order is set aside and 3rd respondent is directed to register the

document presented by petitioner for the purpose of registration by collecting requisite stamp duty and registration fee. No costs.

7. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 21-03-2016

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