

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25023 of 2016

ORDER:

The intimation of refusal order dated 02.06.2016 passed by the 2nd respondent-Joint Sub-Registrar-243, Rayachoty Town, Kadapa District refusing to register the relinquishment deed dated 11.05.2016 executed by Konduru Abdul Kalam S/o Chinna Hasan Saheb in favour of the petitioner, is challenged before this Court.

The facts are not in dispute. The facts as can be culled out from the record as well as the material placed on record a Registered Gift Deed dated 26.11.2007 for an extent of 400 sq.yards of land in Survey No.186 of Masapet Revenue Village, Rayachoti Mandal, Y.S.R. District was settled in favour of the petitioner viz., Ms. Rahma, who is no other than the brother's daughter of 4th respondent and one Konduru Abdul Kalam S/o K. Chinna Hasan Saheb. As the petitioner accepted the gift, thereby the gift deed has been given effect. By relinquishment deed dated 11.05.2016 said Konduru Abdul Kalam desired to relinquish his share of the property, acquired through the Gift Settlement Deed dated 26.11.2007, in favour of the petitioner. Accordingly, the petitioner presented the relinquishment deed executed by the said Abdul Kalam for registration and the same was rejected by intimation of refusal dated 02.06.2016 stating that "the right of the scheduled property to the executants was cancelled by document number 2799/2008 dt.22.05.16, hence there is no right to the parties to entertain the scheduled property in any manner". The refusal order said to have been passed on 09.05.2016, however, there is no copy furnished to the petitioner. Challenging the said intimation of refusal the present Writ Petition is filed.

It is the contention of the learned counsel for the petitioner that the Gift settlement deed, which is executed on 26.11.2007, unilaterally

could not have been cancelled by the 3rd respondent, especially when the gift settlement has been accepted and the factum of gift is completed and the property vests absolutely in the petitioner as well as to the other beneficiary, in whose favour the gift deed has been executed. Learned counsel also submits that 3rd respondent having executed the document in favour of the petitioner and other beneficiary has completely divested himself of the right in relation to the property and the petitioner and other beneficiary are entitled to enjoy the same and deal with the same in their own right. Therefore, learned counsel for the petitioner prays for setting aside of the intimation of refusal dated 02.06.2016.

Learned Government Pleader submits that section 72 of the Registration Act, 1908 (in short "the Act") provides for an appeal against the order of refusal by the Sub-Registrar and submits that the petitioner may be directed to avail the remedy of appeal.

Having considered the respective submissions, *prima facie* there is a force in submission made by the learned counsel for the petitioner. however, considering the scope of Section 72 of the Act being vide, which gives ample power to the Registrar to set right any order except where the refusal is made on the ground of denial of execution, this Court does not require to enter into the controversy.

In the circumstances liberty is given to the petitioner to approach the Registrar by filling appeal. If the appeal is filed, the same shall be disposed of within 30 days from the date of receipt of the appeal after giving notice to the 3rd respondent. Petitioner is at liberty to place both the factual as well as legal submissions before the appellate authority.

Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the Miscellaneous Petitions pending, if any shall also stand closed.

Date: 11.08.2016
SSV

CHALLA KODANDA RAM, J.