

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.15369 OF 2016

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in passing the refusal order dated 25.04.2016 only on the ground that the 'pahani' dated 22.12.2014 shows the subject land as 'Laoni patta' in column No.6/7 and come to conclusion that the property in Sy.No.33/1, extent Ac.5.00, situated at Mekalwad Village, Asifabad Mandal, Adilabad District, comes under Section 22A (1) (a) of the Registration Act, even though the property is not included in the prohibitory list, as arbitrary and illegal and also violative of the law laid down by the Full Bench of this Court and contrary to the order passed by the respondent No.5 vide Proceedings No.A/47/2016, dated 22.01.2016, consequently set aside the refusal order dated 25.04.2016 and thereby direct the respondents to register the document by giving the regular registration number for pending document No.P1/2015 and release the same to the petitioner.

2. The case of the petitioner is that she agreed to purchase the property of one Egurapu Laxmi, and approached the 4th respondent along with her vendor-Laxmi to know the stamp duty, registration charges and also to know whether the property is included in the prohibitory list or not. Then, the 4th respondent informed that the subject property is not included in the prohibitory list, but directed the petitioner and her vendor to produce 'No Objection Certificate' from the revenue authorities. Aggrieved by the same, the vendor of the petitioner filed WP.No.24738 of 2014 and the same was disposed of on 27.08.2014, directing the 4th

respondent to receive and process the document presented by the petitioner without insisting upon such NOC and if the 4th respondent want to deny the registration, directed the 4th respondent to pass order in writing indicating the reasons for such refusal and communicate the same to the party in accordance with Section 71 of the Registration Act, 1908. In pursuance of the said order, the 4th respondent received the documents presented by the petitioner and completed all the formalities on 09.01.2015 and asked the petitioner to receive the document after three days. When the petitioner approached the respondent No.4 after three days, for receiving the document, the 5th respondent informed the petitioner that the document is not ready and postponed the matter by one pretext or the other. Thereafter, the 4th respondent by his letter dated 13.01.2015 asked the 5th respondent to clarify whether the subject land is an assigned land or patta land and without waiting clarification from the 5th respondent issued proceedings dated 28.01.2015 informing the vendor of the petitioner that the property mentioned in the schedule of document presented for registration vide document No.P1/2015 is prohibited for registration under Section 22 A of the Act. Thereafter, the vendor of the petitioner filed application under RTI Act, before the 5th respondent requesting to provide a copy of the letter addressed by the 4th respondent and the same is provided wherein the 4th respondent categorically stated that the land in Sy.No.33/1 is not found existing in the list of prohibited property issued by the Tahasildar, Asifabad. As such, the vendor of the petitioner filed CC.No.1149 of 2015 and the same was closed on 06.10.2015, giving liberty to the petitioner to contest the decision given by the respondent No.4. Thereafter, the petitioner and her vendor

submitted an application before the 5th respondent requesting to verify the records and delete the word 'laoni' in the online revenue records and the 5th respondent on verification of the records, issued proceedings dated 22.01.2016 directing the VRO to incorporate the word 'patta land' in the online pahani of Mekalawada and thereby the VRO, Mekalawada Village, complied the order and also issued 'pahani' on 28.01.2016 through 'mee seva' deleting the word 'laoni'. Immediately, the petitioner and her vendor approached the 4th respondent requesting to release the document in view of the latest 'pahani'. But, the 4th respondent refused to receive the application. Then the petitioner approached the 3rd respondent requesting to furnish the regular document after deleting the refusal number 11/2015, dated 28.01.2015, but the office of the 3rd respondent also refused to receive the application on the ground that the application ought to have filed within thirty days from 28.01.2015. Thereafter, the petitioner filed WP.No.7411 of 2016, challenging the order of the 4th respondent dated 28.01.2015, and the same was disposed of on 31.03.2016, setting aside the refusal order dated 28.01.2015 and directed the 4th respondent to pass fresh reasoned order giving specific reasons as to why he does not wish to register, by imposing costs of Rs.2,000/-. Thereafter, again the 4th respondent passed the impugned order dated 25.04.2016 refusing to register the subject property on the ground that the 'pahani' issued by the 5th respondent on 22.12.2014 shows in column 6/7 as 'laoni patta', therefore the property comes under Section 22 A (1) (a), even though the said property is not included in the prohibitory list. Aggrieved by the same, present writ petition is filed.

3. Heard both sides.

4. Learned counsel for the petitioner submits that the letter addressed by the 4th respondent on 13.01.2015 to the Tahsildar, itself shows that the subject property in Sy.No.33/1 of Mekalwada Village of Asifabad Mandal is not found in the list of prohibited property issued by the Tahsildar, Asifabad, under Section 22 A. He also submits that this Court set aside the refusal order dated 28.01.2015 passed by the 4th respondent by imposing costs as the said order is cryptic. He also submits that the 5th respondent issued proceedings dated 22.01.2016 directing for rectification of the entries and that the VRO, Mekalawada Village complied the said order and also issued 'pahanies' on 28.01.2016 by deleting the word 'laoni'. He further submits that in pursuance of rectification of entries in the records, when the petitioner and her vendor approached the 4th respondent to release the document, the 4th respondent, again refused the same and passed impugned endorsement dated 25.04.2016, which is illegal.

5. A perusal of the above facts goes to show that though 'No Objection Certificate' is not required, the 4th respondent insisted for the same and aggrieved by the same the petitioner along with her vendor filed WP.No.24738 of 2014 and the same was disposed of directing the 4th respondent not to insist for NOC for registration of the documents presented by the petitioner. But, the 4th respondent on the vague grounds passed order dated 28.01.2015 without giving specific reasons, against which the petitioner and her vendor filed WP.No.7411 of 2016. The said writ petition also disposed of on 31.03.2016 setting aside the order dated

28.01.2015 passed by the 4th respondent by imposing costs. Thereafter, when the petitioner approached the 5th respondent for rectification of entries in the 'pahani' the same was also done by virtue of the order dated 22.01.2016 issued by the 5th respondent. Thereafter, when the petitioner approached the 4th respondent requesting to release the document in view of the latest 'pahani' the 4th respondent once again passed the impugned rejection order which is arbitrary and erroneous. Obviously, the behaviour of the 4th respondent goes to show that he is bent upon to refuse the registration. In view of the same, I do not see any reason as to why the 4th respondent is behaving in such a manner and driving the petitioner to the Courts several times.

6. In view of the above, the impugned order dated 25.04.2016 passed by the 4th respondent is set aside and the 4th respondent is directed to register the documents presented by the petitioner on production of proceedings No.A/47/2016, dated 22.01.2016, if not already produced, and release the document within a period of one week from the date of receipt of a copy of this order.

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

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

29.04.2016

Note: Issue C.C in one week

B/o.t k

