

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.28288 OF 2016

ORDER:

This writ petition is filed seeking writ of mandamus declaring the action of the 2nd respondent in issuing endorsement in Rc.No.1978/2016/E1, dated 23.07.2016 in refusing to abide by the change of classification proceedings of the then Mandal Revenue Officer, Anandapuram, dated 30.11.1995 in respect of subject lands in Sy.No.209 and 210/1, Tarluwada Village, Anandapuram Mandal, Visakhapatnam District and reckoning that the said lands are assigned lands by ignoring the pattadar pass books and title deeds which are subsisting, as illegal and arbitrary.

Heard Sri Vedula Venkata Ramana, learned Senior Counsel for the petitioners, who submits that the petitioners have presented the documents in respect of the subject land in the writ petition before the 5th respondent for registration of agreement of sale -cum-General Power of Attorney dated 13.02.2007, which were assigned pending document Nos.3 and 4 of 2007. He submits that neither the said documents were registered nor any orders are passed on the same by the 5th respondent. Aggrieved by the same, present writ petition is filed.

Learned Assistant Government Pleader for Revenue on instructions, submits that the subject land was recorded as 'Hill Poramboke'. He would contend that the Tahsildar was directed by the District Collector on 23.07.2016 to include the subject

property in the list of prohibited properties under Section 22-A of the Registration Act, 1908.

Section 71 of the Registration Act reads as follows:

Reasons for refusal to register to be recorded.—

(1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words “registration refused” on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

As per Section 71 of the Registration Act (for short “ the Act”), the 5th respondent is bound to receive the documents and register, if the same are in order as per Stamps and Registration Act and Rules made thereunder. If he wants to refuse the registration, he has to record the reasons as envisaged under Section 71 of the Act, which is referred to supra.

In view of the above, since the documents were assigned pending document Nos.3 and 4 of 2007, 5th respondent is directed to receive the same, if it is in order in terms of Section 71 of the Act and register the same if the said property is not in list of prohibited properties for registration as per Section 22-A of the Registration Act and no injunction order is operating in respect of the said property and also if the same is in order as per provisions of Indian Stamp Act and Registration Act and the Rules made thereunder, keeping in view of the Full Bench

Judgment reported in **Vinjamuri Rajagopala Chary and others v. Principal Secretary, Revenue Department, Hyderabad and others**¹ and that if he wants to refuse to register the same, he shall record reasons and communicate the same to the parties as required under Section 71 of the Act.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

28-04-2017
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A.RAJASHEKER REDDY,J

¹ 2016 (1) ALT 550 (FB)

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