

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.22393 of 2017

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Assignment (Andhra Pradesh) appearing for respondent Nos.1 to 6 and Mr. B.Vijaya Kumar, learned counsel for respondent No.7.

The petitioner, an association registered under the Societies Registration Act, 1860, presented a General Power of Attorney executed on 31.5.2016 for registration before respondent No.6.

Respondent No.6 passed Refusal Order No.14 of 2016 on 30.6.2016 stating that respondent No.5 had rejected registration of the said document anywhere, since Survey No.75 of Waltair Ward, Visakhapatnam, which is the subject matter of the said document, is included in the Surplus lands list.

Against the said order, the petitioner filed an appeal before respondent No.4.

By order dt 20.3.2017, respondent No.4 confirmed the order of respondent No.6 reiterating what is stated in Refusal Order No.14 of 2016 dt 30.6.2016 of respondent No.6.

Learned counsel for the petitioner contends that the land in Survey No.75/4 of Waltair Ward, Visakhapatnam, in respect of which the said document was executed, is not included in the notification issued by respondent No.2 in Rc.No.44/2016/A1 dt 04.6.2016 as surplus land in Visakhapatnam Urban agglomeration under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act').

Subsequently, it appears that a final list of such surplus lands under the Act was notified in 2017 by respondent No.2 and a copy of the same, produced by the petitioner, also does not indicate that the land in Survey No.75 of Waltair Ward, Visakhapatnam is included in such list.

Therefore, it is clear that respondent No.5, without any material on record, had informed respondent No.6 that the subject

land is included in the Surplus lands list, on the basis of which, respondent No.6 passed Refusal Order No.14/2016 on 30.6.2016, which was confirmed by respondent No.4 on 20.3.2017.

Surprisingly, neither respondent No.6 nor respondent No.4 appears to have actually seen the list of Surplus lands communicated by respondent No.2 before passing the orders. Therefore, the action of respondent Nos.4 and 6 cannot be sustained.

In the counter-affidavit filed by respondent No.6, she has simply reiterated what is contained in the impugned orders passed by respondent Nos.4 and 6 and placed no material before this Court to come to a conclusion that the land in Survey No.75 of Waltair Ward, Visakhapatnam was included in the Surplus lands list communicated by respondent No.2.

Thus, it is clear that the action of respondent Nos.4 and 6 is contrary to law, not *bona fide* and violative of Articles-14 and 300-A of the Constitution of India.

The only answer in the counter-affidavit of respondent No.6 to the contentions of the petitioner is that there is an alternative remedy available to the petitioner by way of filing a suit under Section-77 of the Act against the order passed by respondent No.4.

When the orders passed by respondent Nos.4 and 6 are clearly not *bona fide* and violative of the fundamental right of the petitioner under Article-14 of the Constitution of India and also the right under Article-300-A of the Constitution of India, existence of such alternative remedy is not a bar for approaching this Court under Article-226 of the Constitution of India.

Accordingly, the Writ Petition is allowed; Refusal Order No.14 of 2016 dt 30.6.2016 of respondent No.6 as well as order dt 20.3.2017 of respondent No.4 are hereby set aside; the action of respondent Nos.4 and 6 in refusing to register the document presented by the petitioner is declared as illegal, arbitrary and violative of Articles-14 and 300-A of the Constitution of India; and a direction is issued to respondent No.6 to receive the document

presented by the petitioner, without reference to both the orders referred to above, and register the same strictly in accordance with the provisions of the Stamp Act, 1899 and the Registration Act, 1908, within four weeks from the date of receipt of a copy of this order. Respondent No.1 shall pay costs of Rs.3,000/- (Rupees Three thousand only) to the petitioner, within four weeks from today, which shall be recovered from respondent Nos.4 and 6.

As a sequel, Miscellaneous Petitions, if any, pending, shall stand disposed of as infructuous.


JUSTICE M.S.RAMACHANDRA RAO

30th November, 2017

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