

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21049 of 2017

ORDER:

This writ petition is filed challenging the refusal order vide Ref.No.R.O (O.B)/KNL/REFUSAL ORDER No.24, dated 11.06.2015, passed by the 3rd respondent wherein the 3rd respondent refused to register the documents submitted by the petitioner basing on the letter of the District Collector dated 21.09.2005 and also letter dated 22.07.2011 of the Chief Executive Officer, A.P.Wakf Board, Nampally, Hyderabad.

Learned counsel for the petitioner submits that in similar circumstances this Court considered the issue in WP.No.10631 of 1992 dated 28.12.1996 holding that since the suit filed by the Wakf Board in OS.No.27/1969 on the file of Additional Subordinate Judge, Kurnool for declaration of title and delivery of possession, is dismissed by judgment and decree dated 26.02.1970, in respect of land in Survey No.340 and 128, directed the registration authorities to entertain the documents presented in respect of the land in aforesaid survey numbers.

In the counter affidavit filed by the learned Standing Counsel for the 5th respondent, it is stated that the petitioner is not a party to the said suit. But, it is not disputed that the Wakf Board lost the suit in OS.No.27/1969 for declaration of

title and recovery of possession. The 5th respondent relied on the Judgment dated 23.12.2015 rendered by the Full Bench of this Court in WA.No.342/2015, stating that the writ petition is not maintainable.

The fact that the 5th respondent lost the suit is not denied. Once the 5th respondent has lost suit for declaration of title and recovery possession, again letter dated 22.07.2011, basing on which the impugned refusal order is passed, cannot be issued. It is also not stated that the Judgment of civil Court has been challenged by way of any appeal. More so, the District Collector has no power to send the list of prohibited properties for registration in respect of Wakf properties. Having lost suit before civil Court again the 5th respondent cannot contend that the same cannot be registered. This Court also considered the said fact in WP.No.12313/2013 dated 23.04.2013. Though the 5th respondent relied on the Judgment rendered by the Full Bench of this Court in WA.No.342/2015, having lost the suit before the Court below, the 5th respondent cannot again contend that the subject property is Wakf property.

In view of the aforesaid facts and circumstances, the impugned order is set aside and the 4th respondent is directed to entertain and register the sale deeds presented by the petitioner in respect of the subject property if the same is in

order as per the provisions of Indian Stamps and Registration Act and the Rules made thereunder.

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

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

A.RAJASHEKER REDDY, J

16.02.2017
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