

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.1365 OF 2006

ORDER

This writ petition is filed for the following relief:

“..to issue a Writ of Mandamus or any other appropriate writ declaring that the action of respondent in not accepting and registering the sale/gift/mortgage or any other deeds executed by the petitioners in respect of land in Sy.No.275 and its sub division numbers situated at Dhone Village and Mandal, Kurnool District, is arbitrary and illegal and direct the respondents 2 and 3 to accept and register the sale/gift/mortgage or any other deeds executed by the petitioners relating to the land in Sy.No.275 and its sub division numbers of Dhone Village and Mandal, Kurnool District, and grant such other relief as it deems fit in the circumstances of the case.”

The petitioners claim that they are owners and possessors of agricultural land in Sy.No.275 and its Sub Divisions, situated at Dhone Village and Mandal, Kurnool District. It was recorded as private patta land in Adangals and other revenue records. When they wanted to sell a part of the land, the 2nd respondent orally informed them that in view of the request made by the 4th respondent, the land in Sy.No.275 of Dhone, Kurnool District is a wakf land and registration of sale deeds in respect of the same, cannot be accepted. On the request of the petitioners, the 2nd respondent issued attested copy of a letter dated 02.10.2003 addressed by the 4th respondent to the 2nd respondent. The petitioners further stated that the Gazette Publication issued on

2.5.63 in respect of the said land was reversed subsequently. In those circumstances, they challenged the action of the respondents in not accepting and registering the sale deed/mortgage or any other deed executed in respect of the said land.

In the present writ petition, respondents 1 to 3 did not file any counter-affidavit.

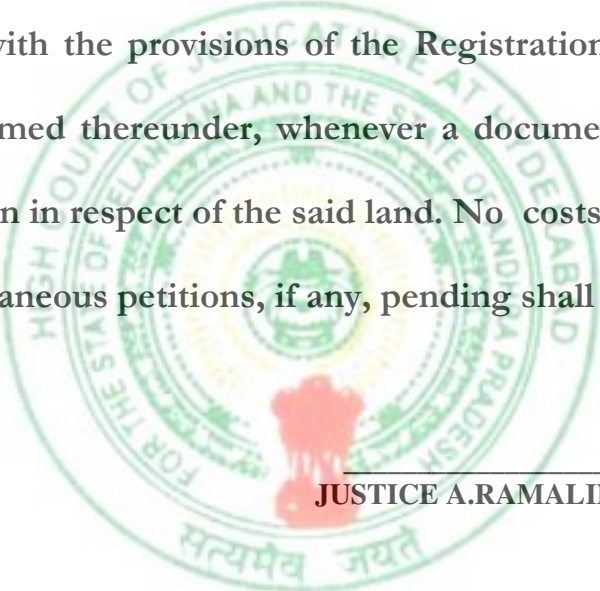
The 4th respondent filed a counter affidavit, wherein it is stated that the petitioners and his ancestors do not have any right to alienate the wakf property. The mutation in the revenue records, pahanis as well as issuance of Pattadar Pass Books in favour of the petitioners are not binding on the respondent as the land in Sy.No.275, along with other survey numbers, is a wakf property. The same was published in the AP Gazette No.18-A, dated 02.05.1963 at page Nos. 183 and 184 at serial No.1959. In the absence of any challenge to the said notice, it has become final. It is also stated that the Government of Andhra Pradesh, Revenue (W) Department in Memo No.413/U2/87-1, dated 16.5.87 informed the I.G. of Registration and Stamps, Hyderabad, to issue suitable instructions to all the registering authorities, not to register the wakf properties unless a clearance from the Wakf Board is received in the matter. It is also stated that the petitioner has statutory remedy under Section 83 of the Wakf Act, 1995 and the A.P. State Wakf Tribunal, Hyderabad, has the jurisdiction.

Now, it is clear from the above averments that the petitioner is having land in Sy.No.275 and the same is claimed as private

patta land, whereas the same is claimed by the 4th respondent as wakf property. Though the petitioner stated that the notification issued on 02.05.1963 declaring the land as wakf land in the AP Gazette was subsequently reversed, no evidence is produced before this Court.

However, as rightly pointed out by the learned counsel for the petitioners, the action of respondents 2 and 3 are regulated by the provisions of Registration Act, 1908. In view of the same, the Writ Petition is disposed of directing respondents 2 and 3 to Act in accordance with the provisions of the Registration Act, 1908 and the Rules framed thereunder, whenever a document is presented for registration in respect of the said land. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE A.RAMALINGESWARA RAO

15th June, 2017
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