

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.15358 of 2017

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader for Revenue, appearing for the respondent Nos.1, 7 and 8, learned Government Pleader for Endowments, appearing for the respondent Nos.2 to 4 and Smt. K.Lalitha, learned counsel for respondent Nos.5 and 6.

2. Petitioner has filed this Writ Petition assailing the order dt.24-01-2017 of 8th respondent refusing to register the sale deed presented by the petitioner on the ground that a list has been furnished by the Endowment Department Authorities under Section 22A (1) (c) of the Registration Act, 1908 and that the land in Sy. No.180/2-A of Kothavalasa village of Parvathipuram Municipality, which is subject matter of the deed, is endowment land.

3. Learned counsel for the petitioner places reliance on the judgment dt.30-07-1982 of the Subordinate Judge, Parvatipuram in LOP No.43 of 1980 to which 5th respondent temple is a party, wherein the said Court has held that the land in Sy. No.180/1-A, a portion of which had been acquired under Award No.7/80 dt.25-06-1980 under the Land Acquisition Act, 1894, does not belong to the respondent Nos.5 and 6 and that 5th respondent had no interest or title much less possession of the property and respondent Nos.5 and 6 are not entitled to compensation.

4. In the said order, it is mentioned that the predecessor of the petitioner would be under an obligation to perform certain religious functions in respondent Nos.5 and 6 and that such unconditional undertaking was also given to perform such function. It is further recorded that the predecessor of the petitioner had got several properties from which he would perform the functions referred to in the said judgment.

5. Smt. K.Lalitha, learned counsel for respondent Nos.5 and 6 and the learned Government Pleader for Endowments, appearing for respondent Nos.2 to 4, state that the petitioner should perform the functions only from the income from the land in Sy. No.180/1A. However, such is not the order passed by the Civil Court referred to above.

6. When admittedly the petitioner and his predecessor have number of properties, respondent Nos.5 and 6 cannot compel the petitioner not to sell the property since the obligation to perform functions can be discharged by the petitioner from the income from his other properties as well. In any event, 2nd respondent had no jurisdiction, in the light of the finding in the above judgment that the land does not belong to respondent Nos.5 and 6, to declare that the land is endowment land and communicate a list to 8th respondent stating that the land is endowed land. It is clearly abuse of power by 2nd respondent.

7. Therefore, the Writ Petition is allowed; the rejection order dt.24-01-2017 of 7th respondent confirming rejection order dt.26-02-2016 of 8th respondent is set aside; and 8th respondent is directed to entertain the document presented by the petitioner for the purpose of registration and register the same in accordance with the Registration Act, 1908 and the Indian Stamp Act, 1899, within four weeks of the presentation of the document by the petitioner. The respondent Nos.5 and 6 shall pay costs of Rs.2,000/- (Rupees Two Thousand only) to the petitioner.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-12-2017
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