

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.6490 of 2018

Order:

Heard learned counsel for the petitioner and learned Government Pleader for the respondents.

The petitioner states that his mother along with her sister (died issueless) purchased Plot bearing No.24, admeasuring 0.05 ½ cents, situated in Survey No.320/1B.3B of Kallur village and Mandal, Kurnool District, under a registered sale deed dated 10.05.1982 from their vendors Chakali Chinna Moulali and another who in turn purchased the same under a registered sale deed dated 16.06.1972. After their demise, he succeeded to the said property. The petitioner further states that the A.P. Wakf Board filed a suit in O.S.No.27 of 1969 on the file of the Additional Subordinate Judge, Kurnool, seeking declaration of title and delivery of possession of the schedule land therein, which included the land in Survey No.320, and the trial Court, by judgment and decree dated 26.02.1970, dismissed the said suit. Thereafter, when the Government issued a memo declaring the subject property as Wakf property through a memo, the said action was assailed in W.P.No.10631 of 1992 and this Court allowed the Writ Petition by order dated 28.12.1992 holding that since the claim of the Wakf Board had been dismissed, registration authorities cannot refuse to register the documents in respect of the said land. Now when the petitioner intends to sell the said plot to some third parties and approached the second respondent for registration of the documents, he refused to receive the same on the ground that it is a Wakf land. Challenging the same, he filed the present Writ Petition.

The issue raised in this Writ Petition is squarely covered by the decision of this Court in W.P.No.10631 of 1992 dated 28.12.1992, wherein this Court had occasion to deal with the lands situated in Survey Nos.317 and 320 of Kallur village and Mandal, Kurnool District, which were claimed by the Wakf Board as its property in a suit. Taking note of the fact that the suit filed by the Wakf Board had been dismissed, this Court held that the registration authorities could not refuse to register a document in respect of the said land at the dictation of an extraneous authority. Holding so, this Court directed the registration authorities to entertain the documents presented in respect of the land in Survey Nos.317 and 320 of Kallur village and Mandal, for the purpose of registration.

In the circumstances, it is needless to observe that when a properly drafted document is presented for registration complying with all formalities, the second respondent has no alternative except to receive the said document and he cannot refuse to receive the document.

In the circumstances, the writ petition is disposed of directing the second respondent to receive the document, if any, presented by the petitioner and take action in accordance with the provisions of the Registration Act, without reference to the claim by the Wakf Board. If the second respondent cannot register the said document for any reason, he has to make an endorsement to that effect and pass an order in accordance with Section 71 of the Registration Act.

Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed. There shall be no order as to costs.

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A. RAMALINGESWARA RAO, J

Date: 27.02.2018  
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