

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.32146 OF 2016

ORDER:

Heard Mr.V.Sudhakar Reddy for petitioners and the learned Assistant Government Pleader for respondents.

The petitioners assail the order of 2nd respondent in Appeal No.3/2015 dated 21.12.2015 confirming the order of 3rd respondent in Document No.2/2015 dated 29.04.2015 refusing to register sale deed P.No.07/2015 dated 13.02.2015. The subject matter of the pending document dated 13.02.2015 is Ac.1-11 cents in Survey No.514/16 at Ponnada Revenue Village, Echerla Mandal, Ponduru Sub-Division, Srikakulam District.

The 3rd respondent through refusal endorsement dated 29.04.2015 recorded the following reasons and refused to register the document. The operative portion, for convenience and to avoid repetition, is excerpted below:

“Though it forms no part of the Registering Officer as to the validity, legality or property of the claims, vis-a-vis the land, or its character as per Rule 58 of the Registration Rules but when the Registering Officer is informed that there are restraining alienation orders by any Civil Court as per S.O.219 of Part II A.P. Registration Manual as amended in G.O.Ms.No.620, Revenue (Regn.1) Department, dt. 28.9.2002 and G.O.Ms.No.497, Revenue (Reg.I) Department, dt.7.4.2003. When a competent Court of law pass an order of temporary injunction or a decree of perpetual injunction, prohibiting alienation of properties that the registering authority can refuse Registration.

Hence, as per S.O.219 of Part II A.P. Registration Manual as amended in G.O.Ms.No.620, Revenue

(Regn.I) Department, dt.28.9.2002 and G.O.Ms.No.497, Revenue (Regn.I) Department dt.7.4.2003, if the Andhra Pradesh High Court or any other Civil Court restrains a person from alienating a property and if such orders are brought to the notice of the Registering Officers or served on the Registering Officer, the Registering Officer is stopped from going ahead with the Registration.

Accordingly the registration of the property in the document in question is under the restraining alienation in I.A.No.238/2011 in O.S.No.5/2011 of the Hon'ble Principal District Judge, Srikakulam which has also been confirmed by the Hon'ble High Court of A.P., Hyderabad in CMA 1194/2011, 3.11.2011.

In the circumstances I have no option, but to desist from registering the document.

I am, therefore, satisfied that the document is refused under Sec.71 of the Registration Act, 1908 as regards property an extent of Ac.1.11 cents of Dry land in Sy.No.514/16 situated at Ponnada Revenue Village, Ponnada Panchayat, Etcherla Mandalam of Ponduru Sub-District of Srikakulam District."

The petitioners challenge the endorsement dated 29.04.2015 under Section 72 of the Registration Act, 1908. The 2nd respondent placed a cordant note by confirming the reasoning of 3rd respondent in all material particulars. Perusal of both the orders takes this Court to the fact in issue for consideration. One Batchu Prabhavathi wife of Ananda Reddy instituted O.S No.5 of 2011 on the file of Principal District Judge, Srikakulam. The petitioners herein are not the defendants in O.S No.5 of 2011. On 05.09.2011, the learned Principal District Judge granted interim injunction restraining the defendants/respondents 1 to 4 from alienating the suit schedule property in favour of respondents 5 and 6 therein. By referring to

the said order of injunction, the 3rd respondent issued the endorsement dated 29.04.2015. The Standing Order 219 reads thus:

“An order restraining a person from alienating certain property does not operate as a prohibition to the registering officer against the registration of a document executed by such person affecting such property.

(b) If the A.P. High Court or any other Civil Court restrains a person from alienating a property and if such orders are brought to the notice of the Registering Officer or served on the Registering Officer, the Registering Officer is estopped from going ahead with the registration.”

The Standing Order has been amended through G.O.Ms.No.620 dated 28.09.2002 and G.O.Ms.No.497 dated 07.04.2003. Even if this Court takes into consideration the effect of both the amendments, the Standing Order is operative in the limited sphere of parties to the suit in which order of injunction is granted by the civil Court. To the extent of completely refusing to register the document presented by the 3rd party to the suit, this Court had occasion to consider in W.P. No.11560 of 2011 and W.P.No.1100 of 2012. The conclusion recorded therein is that an order of injunction/stay in a suit or a petition would operate only against the parties to it and does not bar 3rd parties.

For the above reasons, I am satisfied that the orders of 2nd and 3rd respondents are liable to be set aside and accordingly the orders are set aside. The petitioners are given liberty to re-present the document by enclosing a copy of this order and on such presentation, the 3rd respondent, if the document otherwise is in order, accepts registration in accordance with law.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 14.06.2018
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