

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.48182 OF 2018

ORDER:

1 The prayer of the petitioner in this case reads as under:

‘For the reasons stated in the accompanying affidavit, the petitioner herein pray that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the letter addressed by the respondent No.3 requesting the respondent No.2 not to allow any transactions in respect of the Flat No.504, bearing H.No.13-11-107 Lakeview Residency, Pragathi Nagar Colony, Gaddiannaram Village, Saroor Nagar, Hyderabad and the consequential action of the respondent No.2 in refusing to entertain the sale deed for registration referring the letter addressed by the respondent No.3 as arbitrary, illegal abdication of the statutory duty cast on him under the provisions of the Registration Act, 1908 and contrary to the well established legal principles apart from being violative of the fundamental and Constitutional rights guaranteed to the petitioner under Articles 14, 19 and 21 of the Constitution of India and consequently direct the respondent No.2 to entertain the sale / Will deed for registration for the Flat No.504, H.No.13-11-107 Lakeview Residency, Pragathi Nagar Colony, Gaddiannaram Village, Saroor Nagar, Hyderabad by setting aside the letter addressed by the respondent No.3 and pass such other orders as this Hon’ble Court deems fit and proper in the circumstances of the case.’

2 Perusal of the communication addressed by the Deputy Superintendent of Police, (Investigating Officer) RO, CID, Guntur, Camp at Vijayawada, the third respondent, to the Sub-Registrar, Saroornagar Mandal, Hyderabad, the second respondent, demonstrates that he stated therein that a criminal case has been registered against one Kota Sridhar which was under investigation and requested the Sub-Registrar not to allow any transactions in relation to the properties covered by the documents mentioned by him which stood in the name of the said Kota Sridhar. He further stated that the letter should be treated as a notice under Section 91 Cr.P.C.

3 Section 91 Cr.P.C. empowers any officer in-charge of a police station to issue summons or a written order to the person in whose possession a document is believed to be, requiring him to produce it. The said provision does not empower the police officer concerned to injunct the registration authorities from entertaining documents for registration. The complaint of the petitioner is that the Sub-Registrar, Saroornagar, Hyderabad, is treating

the said communication as one in the nature of an injunction and refusing to receive the document presented by her in relation to her flat.

4 As already stated supra, the communication addressed by the Deputy Superintendent of Police (Investigating Officer) RO, CID, Guntur, Camp at Vijayawada, to the Sub-Registrar, Saroornagar, Hyderabad has no value in the eye of law insofar as it requests the Sub-Registrar not to allow any transactions in relation to certain properties.

5 The Writ Petition is accordingly allowed to that extent, making it clear that the said communication shall not be treated as one in the nature of an injunction, restraining the Sub-Registrar, Saroornagar, Hyderabad, from entertaining documents for registration in relation to the properties mentioned therein. In the event the petitioner presents any document for registration in relation to her flat, the Sub-Registrar, Saroornagar, Hyderabad, shall entertain and process the same in accordance with the due procedure. If the document is found to be in compliance with the requirements of the Registration Act, 1908 and the Indian Stamp Act, 1899, the Sub-Registrar shall complete the formalities and release the document after due registration. If, for any reason, the Sub-Registrar is of the opinion that such document does not warrant registration, he shall pass a reasoned order of refusal under Section 76 of the Registration Act, 1908 and communicate the same to the petitioner.

6 Pending Miscellaneous Petitions, if any, shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

31st January, 2019
Kvsn