

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.4286 of 2020

ORDER:

The present writ petition is filed declaring the action of the 4th respondent in refusing to receive and register the sale deed presented by the petitioner in respect of subject property mentioned in the writ affidavit as illegal and arbitrary and for a consequential direction to the 4th respondent to receive and register the sale deed presented by the petitioner.

Learned counsel for the petitioner submits that though the petitioner purchased subject property under registered sale deed dated 06-06-2009, the Sub-Registrar is not entertaining the document presented by him for registration on the ground that the subject property is included in the list of prohibited properties for registration as per Section 22-A of the Registration Act, 1908 as the same is a Wakf land as per Gazette 43-A, dated 24-10-2002 though the said gazette notification was set aside.

On the other hand, Sri Mirza Saifulla Baig, learned Standing Counsel for the respondent-Wakf Board submits that the petitioner has produced Occupancy Right Certificates and names of the petitioner's vendors have not been found in the said certificates and the petitioner states that he has purchased the subject property in the year 2009.

The issue in this case is whether the Sub-Registrar can refuse to receive the document presented for registration.

Heard learned Assistant Government Pleader for Revenue.

It is relevant here to extract the Section 71 of the Registration Act, 1908 (for short “the Act”).

Section 71 of the Registration Act, 1908 reads as follows:

Reasons for refusal to register to be recorded.—

(1) Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words “registration refused” on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

(2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

As per Section 71 of the Act, the 4th respondent is bound to receive the document and register, if the same is in order as per the Indian Stamp Act, 1899 and the Registration Act and Rules made thereunder. Otherwise he shall record the reasons for refusal of the registration.

In view of the above facts and circumstances, it is for the 4th respondent to consider the said aspects while registering the document presented by the petitioner.

Accordingly, the writ petition is disposed of directing the 4th respondent to receive and register the document presented by the petitioner, if the same is in order as per the provisions of Indian Stamps and Registration Act and the Rules made thereunder, and if the subject property is not included in the list of prohibited properties for registration as per Section 22-A of the Registration Act, 1908 or prohibited for registration under any law or not prohibited for registration by any order/injunction passed by the Court or competent authority. If he wants to refuse registration, he shall record reasons and communicate the same to the parties.

With the above direction, the writ petition is disposed of. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.RAJASHEKER REDDY,J

27-02-2020

Nvl