

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.11828 of 2021

Date:17.06.2021

Between:

Mrs. Ankala Padmavathi @ Padma,
W/o.Ankala Devendernath, Aged 55 yrs,
Occu : Housewife, R/o.6-4-1,
19/B/305, Jayadurga Towers, Bolakpur,
Secunderabad

.....Petitioner

And

The State of Telangana,
Rep., by its Principal Secretary,
(Revenue Department),
Secretariat Building, Hyderabad & others.

.....Respondents

The Court made the following:

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ORDER :

This writ petition is filed seeking the following relief :

“ ...issue any appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the acts of the 4th respondent keeping the sale deeds Dt.19.02.2021 as pending Documents No.P.33 and P.34 as arbitrary, illegal, unconstitutional and against the provisions of the Registration Act and pass such order.....”

2. Heard Sri A. Lakshminarayana, learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

3. This writ petition is filed aggrieved by the decision of Sub-Registrar, Kapra contained in the letter No.87/SRO-Kapra/2021 dated 18.03.2021 informing the petitioner that the document presented by her, cannot be registered for the reasons mentioned therein.

4. Against the decision of Sub-Registrar refusing to receive the document, remedy of appeal is provided by Section 76 of the Indian Registration Act. Without availing the said remedy, this writ petition is filed.

5. In the affidavit filed in support of the writ petition, there is no averment as to why petitioner has not availed remedy of appeal and straight away instituted this writ petition.

6. In the letter of the Sub-Registrar three reasons are assigned. Firstly, he stated that he received representation from Smt D. Surya Kumari stating that herself and her husband jointly purchased plot No.65 B & C in Sy.Nos.591, 595, 596, admeasuring 600 Sq yards in Kapra, vide document No. 1241 of 1990 and earlier to that the registered document standing in the name of Smt Ankala Padmavathi was cancelled vide document No.1240 of

1990; secondly, that the name of Smt A.Padmavathi along with her personal particulars are not tallying. It was observed that if age disclosed in the earlier document is true, the person should have been 70 years old whereas, in the pending sale deed, the age is shown as 55 years; and thirdly, O.S.No.215 of 2021 is pending in the Court of I-Additional Junior Civil Judge-cum-XVIII Additional Metropolitan Magistrate, Malkajgiri, Ranga Reddy District and in I.A.No.448 of 2021, status quo order was passed.

7. Learned Assistant Government Pleader sought to contend that there is no refusal. Sofar, the Sub-Registrar has not passed order refusing the document for registration and what is impugned is only a letter.

8. I cannot appreciate the submission of learned Assistant Government Pleader. He cannot justify the procedure adopted by the Sub-Registrar. Once a document is presented for registration, it is the bounden duty of the registering authority to process the document and if the document complies all the required formalities, to register and release the document. If Sub-Registrar is not accepting the document for registration, he must pass order of refusal by indicating reasons and communicate the refusal memo. There is no provision which can enable the Sub-Registrar to issue a letter to the presentor of the document, by giving reasons why he cannot register the document and keep the document with him. It is a strange mechanism adopted by the Sub-Registrar. Having regard to the contents of the impugned letter it is nothing but a decision refusing the request of the petitioner to register the document.

9. Against the decision of the Registering Authority, Section 76 of the Indian Registration Act provides remedy of appeal. It is an effective and efficacious remedy. Since, Sub-Registrar assigned reasons why he cannot register the document petitioner is entitled to avail the remedy of appeal.

10. This Court in exercise of power of judicial review cannot go into inter se disputes and give a finding on merits on the reasons assigned by the registering authority. Scope of judicial review is confined to testing whether procedural formalities are complied, competence of the authority and not on inter se disputes.

11. As noticed above, the registering authority assigned three reasons. On the first two reasons assigned by the Sub-Registrar it is for the petitioner to satisfy the appellate authority by placing the material in support of her claim. The Appellate Authority can appreciate the issue by examining the documents placed before him and if warranted, to afford personal hearing.

12. Further, as observed by the Sub-Registrar, suit is pending and an injunction order is passed by civil Court. Once a suit is pending and injunction order is granted by the civil Court, the Registering authority cannot process the deed of conveyance covering the property in dispute. Petitioner can also persuade the Appellate Authority the injunction granted by the trial Court does not concern the property or injunction order cannot come in the way of processing the deed of conveyance.

13. At this stage, learned counsel for the petitioner sought to contend that as the Court is not inclined to entertain the writ petition and directing the petitioner to avail the remedy of appeal, and since the appeal time lapsed, the Court may grant liberty to

petitioner to avail the remedy of appeal by directing the respondents not to reject the appeal on the ground of delay.

14. When statute prescribes time frame, the Court cannot straight away relax the period of limitation prescribed therein. However, having regard to the fact that the writ petition is filed and pending and the manner in which the communication of refusal was given by the Registering Authority while granting liberty to the petitioner to avail the remedy of appeal, he is also granted liberty to file application to condone the delay in filing the appeal. Having regard to the peculiar facts of the case, the District Registrar shall consider the application to condone the delay and to consider the appeal on merits.

15. For the aforestated reasons, the Court is not inclined to entertain the writ petition at this stage. Thus, leaving it open to the petitioner to avail the remedy of appeal, subject to above observations, the writ petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

17th June, 2021
Rds

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