THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.30497 of 2022

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of respondent No.3 in not validating the Agreement of Sale *vide* document bearing No.3875/2014, dated 15.09.2014, as arbitrary, illegal and consequently, direct respondent No.3 to validate the aforesaid agreement of sale.

2. Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue, appearing for the respondents.

3. The short grievance of the petitioner in this writ petition is that she intended to get agreement of sale, dated 15.05.214 validated by paying deficit stamp duty and approached respondent No.3 herein. But respondent No.3 herein is not receiving and validating the said agreement of sale, without assigning any reason.

4. It is the case of the petitioner that she has purchased house bearing Municipal No.17-1-473/A/73, situated in plot No.73 in Survey Nos.142 to 144, 148 to 160/P, total admeasuring 132.00 square yards, having plinth area of 100 sq feet room of ACC in Ward No.17, Block No.1, situated at Krishna Nagar, Saidabad, under a registered sale deed, dated 15.09.2014 vide document No.3875/2014 from one Smt Bharathamma. In turn the said Bharathamma said to have purchased the subject property under an agreement of sale, dated 09.03.1994 from one K.Laxminarsimha. When the petitioner intended to avail loan by creating equitable mortgage by deposing her registered sale deed, the bank authorities stated to have insisted for validating the agreement of sale, dated 09.03.1994, which is a link document for registration of sale deed. However, when the petitioner approached respondent No.3 seeking validation of the said agreement of sale, the same is not being received and validated by respondent No.3.

5. In terms of Section 41 of the Indian Stamps Act, 1899, the Collector i.e., respondent No.3 herein is required to verify any instrument chargeable with duty presented before him

for validation, which is not duly stamped and such person is ready to pay the deficit stamp duty to the Collector the amount of proper duty or the amount required to make up the same and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake etc., Collector may instead of proceeding under Sections 33 and 40, receive such amount and proceed further.

6. Thus, the Collector/respondent No.3 is under obligation to validate the subject document, namely agreement of sale by duly collecting the deficit stamp duty and return the document to the petitioner, in terms of Section 41 of the Indian Stamp Act, 1899.

7. In the light of the above, the Writ Petition is disposed of directing respondent No.3 to receive the agreement of sale presented by the petitioner for validation and duly validate the same by collecting deficit stamp duty and make necessary endorsement to that effect and return the document to the petitioner, within a period of ten (10) days from the date of submission of such document by the petitioner.

Miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

MUMMINENI SUDHEER KUMAR, J

Date:26.07.2022

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