

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION No.38395 of 2022

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Stamps and Registration appearing for the respondents. With their consent, this writ petition is disposed of at the stage of admission.

2. The main grievance of petitioner in this Writ Petition is that the 3rd respondent is refusing to receive, process, register and release the subject document submitted by the petitioner for registration in respect of House Plot No.104, First Floor, PTIN No.1129910669, D.No.4-13/104, Block No.XIII, PRAJAY SHELTERS APARTMENTS, with built up area of 365 sq. feet along with undivided share of land admeasuring 5.65 sq. yards in Survey No.44 of Maktha Mahaboobpet Village, under GHMC Serilingampally Circle, Serilingampally Mandal, Ranga Reddy District.

3. Learned counsel for the petitioner contended that on earlier occasions, this Court in Writ Petition No.17050 of 2019, dated 09.08.2019, and Writ Petition No.2301 of 2020, dated 05.02.2020, has passed orders directing registration of the documents presented/pending before the authorities; and the subject plot in

the present writ petition also pertains to the very same survey number.

4. The above position is not disputed by learned Government Pleader for Stamps and Registration appearing for the respondents. He, however, submitted that the land situated in Survey No.44/4 admeasuring Acs.28-02.5 guntas and land situated in Survey No.119, admeasuring Acs.12.30 guntas are classified as Government Lands; and that Writ Appeal No.1499 of 2019 was preferred against the order passed in Writ Petition No.23574 of 2014, and Writ Appeal No.866 of 2019 was preferred against the order passed in Writ Petition No.30395 of 2018, and the same are pending before this Court.

5. Having considered the submissions made on either side and taking into consideration the District Gazette notification issued by the 2nd respondent herein, dated 26.09.2013, purportedly issued in exercise of power under Section 22-A of the Indian Registration Act, 1908, on the face of it, the said Gazette notification is without jurisdiction since any notification issued under Section 22-A of the Indian Registration Act, 1908 is required to be issued by the Government. Though the writ appeals said to have been preferred by the Government are pending consideration, it is not the case of the learned Assistant

Government Pleader that any interim orders are passed in the Writ Appeals.

6. Taking into consideration the fact that this Court on earlier occasion passed orders in W.P.No.37706 of 2021, dated 06.01.2022, under similar circumstances, this Court is inclined to dispose of the Writ Petition on the same lines.

7. The learned Government Pleader has stated that the official respondents will follow the procedure contemplated under Section 71 of the Registration Act, 1908 (for short, 'the Act').

Section 71 of the Act 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 situated within his sub-district shall make an order of refusal and recorded 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.

8. In view of the submissions made above coupled with the provision under Section 71 of the Act, 1908 the Writ Petition is disposed of directing the Registering Authority to receive and process the subject document without reference to the Gazette Notification dated 26.09.2013, subject to the petitioner complying with the provisions of the Act, 1908 as well as the Indian Stamp Act, 1899. It will be open to the Registering Authority to refuse the document presented before him, if he has any objection, by duly assigning reasons in support of such decision and communicate the said decision to the petitioner. It is also made clear that this order does not preclude the Government/District Collector to take appropriate steps as warranted by law and to assert its title. If any proceedings/suit/appeal is pending between the executant of the document/Government or any other interested party, the registration of the document will be subject to the result of that proceedings/suit/appeal. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

MUMMINENI SUDHEER KUMAR, J

Date:13.10.2022

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