

THE HONOURABLE SRI JUSTICE K.SARATH

WRIT PETITION No. 39764 of 2022

ORDER:

Heard learned counsel for the petitioner and the learned Assistant Government Pleader for Stamps and Registration, for respondent Nos.1 to 4. With their consent, the Writ Petition is disposed of at the admission stage of admission.

2. The main grievance of the petitioner in this Writ Petition is that respondent No.3 is refusing to receive, process, register and release the subject document submitted by the petitioner for registration in respect of the subject property in Survey No.44 situated at Maktha Mahaboobpet Village, under Greater Hyderabad Municipal Corporation Chandanagar Circle, Serilingampally Mandal R.R.District.

3. Learned counsel for the petitioner contended that on earlier occasion, this Court in Writ Petition No.27846 of 2022, dated 05.07.2022, has passed orders directing registration of the documents presented/pending before the authorities; and the

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

4. The above position is not disputed by the learned Assistant Government Pleader for Stamps and Registration, for the respondents.

5. Having considered the submissions made on either side and taking into consideration the District Gazette notification issued by respondent No.4 herein dated 26.09.2013, purportedly issued in exercise of power under Section 22-A of the Indian Registration Act, 1908 is 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.

6. Taking into consideration the fact that this Court on earlier occasion passed orders in Writ Petition No.27846 of 2022, dated 05.07.2022, 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, 1908').

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

Section 71:

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 2 provisions hereinafter contained, the document is directed to be registered.

8. In view of the submissions made above coupled with the provision of Section 71 of the Act, 1908, the Writ Petition is disposed of directing the Registering Authority to receive and process the subject document/s, without reference to the Gazette Notification dated 26.09.2013, subject to the petitioner complying

with the provisions of the Registration Act, 1908, and Indian Stamp Act, 1899. It will be open to the Registering Authority to refuse the document/s 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.

9. 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 are pending between the executants 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.

10. Accordingly, the Writ Petition is disposed of. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

K.SARATH, J