
(1998) 08 AP CK 0034

In the Andhra Pradesh High Court

Case No : Writ Petition No. 27328 of 1997

C. Bala Varada Reddy

APPELLANT

Vs

District Registrar and Others

RESPONDENT

Date of Decision : 07-08-1998

Acts Referred:

Registration Act, 1908 — Section 35(3)

Citation : (1998) 5 ALT 93

Hon'ble Judges : R.M. Bapat, J

Bench : Single Bench

Advocate : P.S. Narayana, for the Appellant; Govt. Pleader for Revenue for Respondents 1 to 3 and K.V.N. Bhupal, for the Respondent

Final Decision : Allowed

Judgement

R.M. Bapat, J.—The petitioner is invoking the jurisdiction under Article 226 of the Constitution of India to declare the action of the second respondent in issuing notice dated 15-9-1997 as illegal, arbitrary and unconstitutional and consequently seeks a direction to the respondents to register the documents submitted by him for the purpose of registration relating to an extent of Ac. 0.79 cents out of a total extent of Ac. 1.31 cents in Sy. No. 14/3 of Tiruchanur Village, Tirupati Rural Mandal, Chittoor District.

2. The writ affidavit filed by the petitioner herein shows that the property in Sy. No. 14/3 to the extent of Ac. 1.31 cents of Tiruchanoor village, Tirupati Rural Mandal is a private patta land of Palamakulu Changalrayulu which belongs to his family as ancestral property. It is the further case of the petitioner that the owner of the said property was inclined to sell the same and the petitioner was prepared to buy to the extent of Ac. 0.79 cents in Sy. No.14/3 for consideration. Accordingly the document was prepared and submitted to the Sub-Registrar for registration. But, the Sub-Registrar instead of registering the document, issued a notice to the petitioner informing that the Mandal Revenue Officer has informed him that the land in question belongs to the institution and the same cannot be

registered. The petitioner was called upon by the Sub-Registrar to give explanation as to why the registration should not be refused. Aggrieved by the said order and also aggrieved by the notice issued by the Sub-Registrar, the petitioner was constrained to file the present writ petition.

3. The learned Counsel Mr. Narayana appearing on behalf of the writ petitioner herein submitted the bar that the Registrar has no jurisdiction to refuse to register the document except for the reasons stated u/s 35(3)(a), (b) and (c) of the Indian Registration Act which reads as under:-

(3) (a) If any person by whom the document purports to be executed denies its execution, or

(b) if any such person appears to the registering officer to be a minor an idiot or a lunatic, or

(c) if any such person by whom the document purports to be executed is dead, and his representative or assign denies its execution, the registering officer shall refuse to register the document as to the person so denying, appearing or dead:

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII.

Provided further that the State Government may, by notification in the Official Gazette, declare that any Sub-Registrar named in the notification shall, in respect of documents, the execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.

4. Sri Swamy Hathiramji Mutt filed a petition in W.P.M.P. No. 6224 of 1998 to implead itself as third {sic. fourth) respondent. The implead petition is allowed. It was contended by the Counsel for the implead petitioner that the land belongs to the institution and the same has been confirmed by the High Court. If the statement made on behalf of the Mutt is true, in that event, the Mutt is at liberty to take such other actions it may deem fit against the petitioner herein or even his predecessor in title for recovery of the compensation or for such other reliefs it may be deemed fit, before the appropriate forum.

5. Learned Counsel for the petitioner further submitted that the instructions given by the Mandal Revenue Officer to the Sub-Registrar are contrary to the legal provisions. They are executive instructions. The Sub-Registrar is not bound to obey such instructions. This Court is in agreement with the submission made by the learned Counsel. It appears that a similar view was expressed by the Rajasthan High Court in *Kishni Devi v. State of Rajasthan*, 1902 Rajasthan 24 wherein it was held" that the powers of Sub-Registrar and Registrar cannot be curtailed by any executive instructions issued by the State Government and the order of Sub-Registrar refusing registration on ground of absence of enquiry report from Secretary of Urban Improvement Trust is improper".

6. Considering the above legal position, this Court directs the Second respondent

herein to register the document produced by the petitioner herein.

7. With the direction as above, the Writ Petition is allowed.