

(1990) 09 AP CK 0018

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 7624 and 7703 of 1990

N. Bikshapathi

APPELLANT

Vs

The Joint Sub-Registrar, Hanamakonda and another

RESPONDENT

Date of Decision : 11-09-1990

Acts Referred:

Constitution of India, 1950 — Article 226
Registration Act, 1908 — Section 10, 35

Citation : AIR 1991 AP 80

Hon'ble Judges : Radhakrishna Rao, J

Bench : Single Bench

Advocate : T. Veerabhadrayya, for the Appellant; Govt. Pleader for Revenue, for the Respondent

Judgement

1. The petitioner is pujari and hereditary trustee of Sri Bhogeswaraswamy temple, situate at Matwada of Hanmakonda mandal, Warangal district. The lands in an extent of Ac. 1.33 guntas in survey No. 421 and Ac. 2.30 guntas in survey No. 6 of Matwada village are service Inam lands coming within the purview of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short "the Act"). As pujari of the said temple, the petitioner and his predecessors have been in possession and enjoyment of the said inam lands. The District Collector, Warangal issued directions to the Revenue Officers to hold an enquiry and pass orders under S. 10 of the Act determining the extent of inam land as an occupant and issue the certificate in favour of the occupant as per rules. The R.D.O., Warangal conducted an enquiry and issued a certificate on 3-2-1988, declaring the petitioner as an occupant of the land above stated and determined the premium at Rs.651/- payable in ten instalments commencing from 1-1-1989. The petitioner paid the said premium in lumpsum and thus became the absolute owner of the said lands. The land in Sy. No. 421 was divided into plots. In April, 1989 the petitioner sold one plot in favour of two individuals and executed two sale deeds and the same were registered on 4-4-1989. Again in July 1989, the petitioner sold one plot and executed a registered sale deed on 21-7-1989. It

appears that the Assistant Commissioner, Endowments, Warangal sent a letter to the District Collector Warangal requesting him to cancel the certificate issued to the petitioner by the R.D.O., Warangal under the provisions of the Act. The District Collector treated the said letter as an appeal, condoned the delay in filing the same without notice to petitioner and suspended the order passed by the R.D.O., Warangal pending disposal of the appeal on 31-7-1989. The petitioner, aggrieved by the order of the District Collector, filed a suit in O.S. 677/89 on the file of Principal District Munsif, Warangal to declare that the order of the District Collector is null and void and not enforceable and also for a permanent injunction, restraining the defendants therein from enforcing the said order. Along with the suit, the petitioner filed LA. 1377/89 for temporary injunction, and temporary injunction was granted on 21-2-90, After the grant of temporary injunction, the petitioner executed thirteen sale deeds on 17-5-1990 and presented the sale deeds for registration before the Joint Sub-Registrar, Warangal. The Joint Sub-Registrar, Warangal has not registered the said documents and kept them pending. When the petitioner requested the Joint Sub-Registrar to state the reasons to keep the documents pending, he issued a speaking order, in which it is stated that the Assistant Commissioner of Endowments, in his letter dt. 17-4-1990 has informed that O.S. 677/89 is pending and requested not to entertain any registration in respect of Sy. No. 421 and Sy. No. 6 of Matwada village until the suit is settled and hence the documents are kept pending. Therefore, the petitioner filed this writ petition, seeking a direction to the 1st respondent to register the sale deeds in respect of the land in Sy. Nos. 421 and 6 of Matwada village of Hanumakonda Mandal, Warangal district uninfluenced by the letter dt. 17-4-90 of the Assistant Commissioner of Endowments, Warangal.

2. It is appropriate to quote the speaking order dt. 17-5-90 passed by the Joint Sub-Registrar, Warangal, which runs thus:

"DOCUMENT NOS. P. 71 to P. 83/90:

The documents are sale deeds, executed by Sri Nagavarapu Bikshapathi in respect of S. No. 421 situated at Matwada village, Warangal town relating to Sri Bhogeswara Swamy Temple. The Assistant Commissioner, Endowments Department, Warangal in his letter No. A/32/90, dt/ 17-4-90 has informed that the case in O.S. No. 677/ 89 on the file of the Principal District Munsif Court, Warangal is pending in the Hon''ble Court and requested not to entertain any registration in respect of Sy. Nos.421 and 6 of Matwada village of Sri Bhogeswara Swamy Temple until the O.S. 677/89 is settled. Hence, the documents are kept pending".

3. It is clear from the above speaking order that the Joint Sub-Registrar kept the documents pending with him basing on the information furnished by the Asst. Commissioner of Endowments, Warangal that a civil suit is pending in respect of the land in question and requested him not to entertain registration of any documents in respect of the land in question.

4. Learned counsel for the petitioner contended that when both parties to a document have agreed for registration of a document and presented the same for that purpose, the registering authorities have no power or right to refuse registration or keep the documents pending. He relied on a decision in Krishna Gopal Kataria and Another Vs. State of Punjab and Others, , in support of his contention that the registering authorities have no power to refuse registration. In that case, registration of a document was refused by the authorities based upon instructions by the State Government, and that action of the registering authorities was held to be bad. It was held that the powers of registrars are clearly defined and demarcated in the Registration Act and the registering authorities have no power to refuse registration of documents otherwise than under the provisions of the said Act, and the State Government was not competent to bar registration of certain documents. Ultimately, the order passed by the Sub-Registrar, Patiala, declining to register the document was set aside. That decision is not applicable to the case of the petitioner. In this case, there is no refusal to register the documents at all. The Joint Sub-Registrar, Warangal simply kept the documents pending with him on the ground that he received information from the Asst. Commissioner of Endowments, Warangal that a civil suit filed by the executant is pending before a competent Court in respect of the land in question. The learned counsel for the petitioner also relied on the decisions in Bakshi Surinder Mohan v. The Sub-Registrar (Tehsildar), Nurpur AIR 1977 NOC 209 (Him Pra) and in Nalla Goundar Vs. Krishnaswami Naicker, . These two decisions relate to refusal of the registering authorities to register a document when presented for registration. Therefore, they are of no assistance to the petitioner as there is no refusal at all to register the documents, as stated already.

5. A perusal of the entire material placed on record, it is clear as on the date of executions documents that the petitioner has no absolute right, title or interest over the schedule lands. His claim is based on a certificate obtained by him in 1989. Admittedly, an appeal is pending against the said certificate and the certificate is suspended, pending the appeal. The petitioner approached the Civil Court and filed a suit for cancellation of the suspension order passed by the District Collector and obtained temporary injunction. Under these circumstances, can it be said that the petitioner has got absolute right over the land in question to execute sale deeds in respect of the land in question? Can it be said that the registering authorities have no right or power to keep the documents pending registration. The contention of the learned counsel for the petitioner that under S. 35 of the Registration Act the registering authorities have no right or power to decline registration is without merit, especially when there is a cloud on the title of the land in question and when a civil suit is pending, more so when the certificate issued to him in respect of the land in question is suspended pending disposal of appeal by the District Collector. I do not see any merit in this writ petition, warranting interference under Art. 226 of the Constitution of India. The Writ petition is dismissed. No costs. Advocate's fee Rs.250/-.

6. W.P. No. 7703 of 1990: For the very same reasons set out in W.P. No. 7624/90, this writ petition is dismissed. No costs. Advocate fee Rs. 250/-.

7. Petition dismissed.