
(2012) 12 AP CK 0090

In the Andhra Pradesh High Court

Case No : Writ Petition No. 39496 of 2012

S. Chand Basha

APPELLANT

Vs

Sub-Registrar and Others

RESPONDENT

Date of Decision : 24-12-2012

Acts Referred:

Citation : (2013) 2 ALD 687 : (2013) 3 ALT 443

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : V.V. Satish for G. Sravan Kumar, for the Appellant;

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed for a mandamus to declare the action of respondent No. 1 in issuing letter dated 3.12.2012, whereby he has refused to register the sale transactions in respect of the land comprised in Survey No. 128 of Kallur Village and Mandal, Kurnool District, as illegal and arbitrary. At the hearing, learned Counsel for the petitioner stated that notice along with papers have been served on Mr. Mohd. Habeebur Rahman, learned Standing Counsel for respondent No. 3. However, at the hearing no one represented respondent No. 3.

2. The facts, which are not in dispute, are that respondent No. 3 has filed OS No. 27 of 1969 before the Additional Subordinate Judge, Kurnool, for declaration of title and delivery of possession over the properties in Survey No. 128 of Kallur Village and Mandal, Kurnool District. The father of the petitioner was defendant No. 3 in the said suit. After trial, the suit was dismissed by judgment and decree dated 26.2.1970. When the petitioner sought to sell a part of the property in the said survey number, respondent No. 1 refused to register the same based on the letter dated 3.2.2010 addressed by the Tahsildar, Kallur to respondent No. 1, wherein it was informed that the revenue record showed Survey No. 128 as a wakf property. Feeling aggrieved by the refusal to register the sale deed, the

petitioner filed WP No. 4644 of 2011. This Court, after hearing all the parties including respondent No. 3, has allowed the said writ petition, by order dated 25.2.2011. A perusal of the said order shows that this Court has taken note of the judgment dated 15.12.2004 passed in WP No. 3140 of 1996, which dealt with the land in Survey No. 611 of Kallur Village, which was also claimed as wakf property and that this Court in the said writ petition held that in view of dismissal of the suit filed by the Wakf Board, the registering authorities could not refuse to register the documents at the instance of an extraneous authority, such as Wakf Board. Making the said judgment the basis, this Court allowed WP No. 4644 of 2011, by holding that unless the Government issued a notification u/s 22-A of the Registration Act, 1908 (for short "the Act"), it was not legally permissible for the registering authority to refuse registration on the basis of a letter addressed by the Tahsildar. As evident from the impugned letter, a part of the land in Survey No. 128 was subsequently registered by respondent No. 1 in pursuance of the order in the said writ petition. However, interestingly, respondent No. 1 has stated in the impugned letter that recently respondent No. 3 has addressed a letter dated 19.9.2011 claiming that the property in Survey No. 128 is wakf property and requesting respondent No. 1 not to register any documents in the said survey number and Survey Nos. 317, 320 and 340 of Kallur Village.

3. In my opinion, respondent No. 3 having lost the suit and being a party to WP No. 4644 of 2011 is not expected to address to respondent No. 1 once again claiming the property as belonging to wakf. Respondent No. 3, being a statutory body, cannot be permitted to act in disregard of the judgment of a competent Court of law, which has conclusively rejected its claim of title over the property in question. Such a conduct on the part of respondent No. 3 does not behave its status as a statutory body. Having already suffered a mandamus from this Court to register a part of the property in Survey No. 128 of Kallur Village, respondent No. 1 ought not to have given any credence whatsoever to the letter addressed by respondent No. 3. His conduct in acting upon the letter of respondent No. 3 would suggest that he has given precedence to the letter addressed by respondent No. 3 a completely extraneous authority as regards registration of properties over the judgment of a constitutional Court rendered in WP No. 4644 of 2011. The action of respondent Nos. 1 and 3 being in the teeth of judgments of the civil Court in OS No. 27 of 1969 and also of this Court in WP Nos. 3140 of 1996 and 4644 of 2011 is not justified.

4. For the aforementioned reasons, the writ petition is allowed and respondent No. 1 is directed to receive the document(s) that may be presented by the petitioner and process the same in accordance with the provisions of the Act without treating the property in question as wakf property. As a sequel, WPMP No. 50164 of 2012 shall stand disposed of as infructuous.