

**HONOURABLE SMT. JUSTICE V. SUJATHA**

**Writ Petition No.23954 of 2015**

**ORDER:**

The writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent No.3 in refusing the registration of Sale Deed Sale Deed, dated 09-03-2015, executed by the petitioner in favour of her purchasers in respect of her ancestral property admeasuring Ac 0-65 Cents, in Sy. No. 57, old Sy. No. 47. situated at Kovvada Village, Kakinada Rural Mandal, East Godavari District vide proceedings under Endorsement, dated 09-03-2015 as illegal, arbitrary, and violative of all canons of fair play and natural justice and consequently to direct the Respondent No.3 to register the sale deed presented by the Petitioner .....

2. Brief facts of this case are that the subject land is in possession and enjoyment of the ancestors of the petitioner vide unregistered registered sale deed since 1921. But, surprisingly the subject land was classified as gramakantam and the 3<sup>rd</sup> respondent has refused to register the sale deed presented by the petitioner for registration. Hence, the present writ petition.

3. During hearing learned counsel for the petitioner has reiterated the facts mentioned in the writ petition and requested to pass appropriate orders.

4. The petitioner's claim is that when the petitioner approached the office of the respondent and sought for registration of the subject property the 3<sup>rd</sup> respondent refused to receive the same stating that the subject land is described as '*Gramakantam Land*'. As such, the respondent-authorities may be directed to receive and register sale deed to be presented by the petitioner.

5. The learned counsel for the petitioner has submitted that the subject property is described only as Gramakantam Land and not Government land and also referred the Judgment of this Court in ***Voonna Bangaraju Vs. Government of Andhra Pradesh and others***<sup>1</sup>, wherein it was observed that:

'As evident from the Circular of the District Collector, Kadapa, and the Orders of the Government in G.O.Ms.No.100 dated 22.02.2014, the lands classified as Gramakantham are not the Government lands and that there is no restrain for alienation of the said properties. Thus, the decision of the Sub-Registrar in refusing to entertain the deed of conveyance concerning the properties in Survey Nos. 159/2 and 162/2 of Salur Municipality, is erroneous.

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<sup>1</sup>.2014(3) ALD 443

Accordingly, the Writ Petitions are disposed of directing the Sub-Registrar, Salur, to furnish market value concerning the properties situated in Survey Nos.159/2 and 162/2 of Salur Municipality and to receive the deeds of conveyance as and when the same are presented by the parties on the said lands and process the same in accordance with the provisions of Indian Registration Act, 1908 and the Indian Stamp Act, 1899, without raising the objection that the land is classified as Government land. The Sub-Registrar shall complete the registration formalities, if the documents are in order and to release the same. If the Sub-Registrar has any other valid reason for not entertaining the documents, he shall pass a reasoned order and communicate the same to the parties. There shall be no order as to costs'.

6. It is seen that unfortunately similar types of complaints are coming from the parties in the form of writ petitions saying that concerned Sub Registrar has flatly refused to entertain the document, leaving aside scrutinizing the same and writing a speaking order of refusal. This is a flagrant violation of the duty caste on a Sub Registrar.

7. Section 71 of Registration Act, 1908, reads thus:

“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 situate within his sub-district, shall make an order of refusal and record 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. Thus, law is clear to the effect that if a Sub Registrar proposes to refuse the document presented for registration, he has to endorse the reasons for his refusal and enter the same in Book No.2 and endorse the words ‘Registration Refused’ and furnish a copy of his order to the concerned party. That being so, a Sub Registrar can refuse to register the document, only after he entertains the document i.e., receives the document presented by a party. He cannot refuse to entertain the document altogether, which would amount to total abdication of the assigned duty and lead to misconduct.

9. In these circumstances and having regard to the facts and law, this writ petition is allowed directing the petitioner to present the document before the respondents within one week, in which case, the respondents shall receive and process the same and they have not refused the registration in terms of Section 71, then, register the document of petitioner on his complying with the relevant provisions of Stamps Act and Registration Act. The Registry shall send a copy of this order to

Inspector General of Stamps and Registration for circulation to all the Sub Registrars in the State of Andhra Pradesh. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

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**Smt. JUSTICE V. SUJATHA**

Date: 02.12.2022

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