

**\* THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**

**+ WRIT PETITION No.32194 of 2023**

**% Dated 02-05-2024**

Between:

# G. Pentaiah Goud

... Petitioner

and

\$ The State of Telangana  
Represented by its Principal Secretary,  
(Stamps and Registration),  
Secretariat, Hyderabad and others.

.... Respondents

! Counsel for the Petitioner : Mr. Subba Rao Vadrevu

^ Counsel for the respondents : Govt.Pleader for Stamps &  
Registration for R-1 & 2  
Mr. Abuakram for R-3

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>HEAD NOTE : ---

? Cases referred: :

1. (2019) 10 SCC 259
2. (2018) 8 SCC 67

**THE HONOURABLE SRI JUSTICE N.V.SHRAVAN KUMAR****WRIT PETITION No.32194 of 2023****ORDER:**

This writ petition has been filed seeking writ of mandamus declaring the action of the respondent No.2 in not receiving, registering and releasing the gift deed presented by the petitioner in respect of H.No.43-296/99/1A (Old), 43-349/14 (New), PTI No.1171004909, in Survey No.409 on Eastern side admeasuring 100 square yards out of 190 square yards, situated at RTC Colony, Moulaali, Hanuman Nagar, Krishna Nagar Colony, Medchal Malkajgiri District (hereinafter referred to 'the subject property') as illegal and arbitrary and consequently to direct the respondent No.2 to receive, process, register and release the gift deed/any other deeds presented in respect of the subject property, without insisting No Objection Certificate (NOC) from the respondent No.3.

2. It is the case of the petitioner that he is the absolute owner and possessor of the subject property having acquired the same in the year 2008 and since then he is in possession and enjoyment of the same. With an intention to gift the part of subject property to his son, petitioner along with his son approached the respondent No.2 for registration of gift deed in favour of his son but the respondent No.2 declined registration and informed that certain survey numbers within the limits of SRO Malkajgiri belongs to respondent No.3, Telangana

State Wakf Board. Questioning the same, petitioner filed the present writ petition.

3. The learned counsel for the petitioner would submit that the petitioner is the absolute owner and possessor of the subject property since 2008 and now the petitioner is intending to gift part of subject property in favour of his son but the respondent No.2 is not accepting the document for registration and insisting for NOC from the respondent No.3. He would further submit that the petitioner is paying all the requisite taxes like Electricity bill and Municipal taxes to the concerned. He placed reliance on the interim order dated 30.08.2022 passed in I.A. No.1 of 2022 in W.P. No.34187 of 2022 and sought to pass similar order.

4. On the other hand, the learned Government Pleader for Stamps and Registration would submit that the petitioner has not submitted any supporting evidence along with the subject document and as per Section 21(1) of the Registration Act, no testamentary document relating to immovable property shall be accepted for registration unless it contains description of such property sufficient to identify the same. It is further submitted that the petitioner is claiming his title over the subject property based on the unregistered/notarized agreement of sale, which is not acceptable for further conveyance through gift registered deed. The learned Government Pleader while placing reliance in the case of **Prahlad Pradhan and others Vs. Sonu**

**Kumhar and others**<sup>1</sup> would submit that in similar circumstances this Court had dismissed the W.P. No.11036 of 2024 and sought to dismiss the present writ petition.

5. Heard the learned counsel on either side and perused the material made available on the record.

6. Having gone through the case referred to hereinabove supra wherein the Hon'ble Apex Court placed reliance in the case of **Eureka Builders v. Gulabchand**, [(2018) 8 SCC 67], relevant portion is extracted hereunder:

7. Since Mangal Kumhar did not have an exclusive right, title or interest in the suit property, his widow Etwari Kumharin was not legally competent to sell the suit property to the appellants, purporting to be the sole owner of the property. Reliance is placed on *Eureka Builders v. Gulabchand* wherein this Court held :

*“35. It is a settled principle of law that a person can only transfer to other person a right, title or interest in any tangible property which he is possessed of to transfer it for consideration or otherwise. In other words, whatever interest a person is possessed of in any tangible property, he can transfer only that interest to the other person and no other interest, which he himself does not possess in the tangible property.*

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<sup>1</sup> (2019 10 SCC 259

*36. So, once it is proved that on the date of transfer of any tangible property, the seller of the property did not have any subsisting right, title or interest over it, then a buyer of such property would not get any right, title and interest in the property purchased by him for consideration or otherwise. Such transfer would be an illegal and void transfer.”*

7. In the case on hand, the petitioner seeks prayer to register a document on the basis of un-registered/notarized documents. Applying the ratio laid down in the case of **Eureka Builders** (supra) [(2018) 8 SCC 67], to the case on hand and since the petitioner did not have subsisting right, title or interest over the subject property and wants to gift the said property to his son, such transfer is an illegal and void transfer and therefore, the relief as sought for by the petitioner in the present writ petition cannot be entertained. Further it is pertinent to note here that the *modus operandi* adopted by the petitioner for registration of subject document only for the purpose to fill up lacunae of unregistered documents and for such purpose filing of present writ petition is nothing but misleading the Court. Hence, this Court deems it fit to dismiss the writ petition.

Accordingly, this writ petition is dismissed. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

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**JUSTICE N.V.SHRAVAN KUMAR**

**Date: 02.05.2024.**  
**LSK**