

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.20312 OF 2015

DATED:17-11-2015

Between:

Altaf ... Petitioner

And

Greater Hyderabad Municipal Corporation

Rep. by its Commissioner

Tank Bund Road

Hyderabad

and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. R.A. Achuthanand

COUNSEL FOR THE RESPONDENTS: Mr. Sreenivasa Rao Velivela

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside proceedings No.9149/TC7/GHMC/2015, dt.24.4.2015, of the Deputy Commissioner of respondent No.1 Corporation, whereby he has restored the name of respondent No.3 in the assessment register pertaining to the property bearing No.11-2-555/2, situated at Mallepally, Hyderabad.

This is a case where son and mother are locking horns against each other in respect of a property. The petitioner is none other than the son of respondent No.3, who has

three sons and six daughters. It appears, the father of the petitioner is living with him, while respondent No.3 is living with the other sons. Admittedly respondent No.3 was the owner of the property and it stood in her name. The petitioner approached respondent No.2 for mutation of his name based on a purported hiba (oral gift) by respondent No.3 in favour of the petitioner's father, and thereafter through a hiba (oral gift) by his father to himself. The grievance of respondent No.3 was that without even putting her on notice, respondent No.2 has mutated the name of the petitioner in her place. Therefore, respondent No.3 has approached respondent No.2 for restoration of her name. A perusal of the impugned order shows that though notice was given, the petitioner has not entered appearance and has not contested. However, Mr. R.A. Achuthanand, learned counsel for the petitioner, seriously disputed this finding and submitted that his client has engaged a Lawyer and he appeared before respondent No.2.

Be that as it may, the dispute revolves around title of the property. While admittedly respondent No.3 was the owner of the property, the claim of the petitioner is based on two oral gifts as referred to above; one by respondent No.3 in favour of his father and another, by his father in his favour. In my opinion, such a dispute does not fall within the scope of enquiry by respondent No.2 as he is not expected to adjudicate serious disputed questions involving title and succession. In order to prove oral gift, oral evidence is required to be recorded, besides documentary evidence, if any, that may be adduced by the parties. Indeed, the petitioner relied upon a document purportedly referring to a past gift and respondent No.3 has filed a criminal complaint against the petitioner for the offence of forgery. I am afraid, such complicated disputes cannot be decided by respondent No.2. Therefore, it is in the fitness of things that the petitioner, who is claiming title in himself based on two oral gifts, should approach the Civil Court of competent jurisdiction for declaration of title.

In the above view of the matter, I decline to interfere with the impugned order and the writ petition is accordingly dismissed with liberty to the petitioner to avail the remedy of a civil suit.

As a sequel to dismissal of the writ petition, interim order dt.06.7.2015 shall stand vacated, and W.P.M.P. No.26171 of 2015 and W.V.M.P. No.3171 of 2015 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

17-11-2015

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