

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH

MONDAY, THE SECOND DAY OF FEBRUARY TWO
THOUSAND AND FIFTEEN

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.23830 of 2009

Between:

C. Swamy, S/o. Late Ramulu,
Aged about 56 years,
Occ: Employee, B8 F1,
Udyognagar Colony, Punjagutta,
Hyderabad.

.. Petitioner

AND

The Sub-Registrar,
Kapra, ECIL 'X' Roads,
Near Round Building,
Ranga Reddy District & another

.. Respondents

The Court made the following:

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ORDER:

The petitioner claims to be the member of Sri Bhavana Rishi Co-operative House Building Society, Chikkadpally, Hyderabad (2nd respondent). The society formed a layout and sold plots to the members of the society. The petitioner purchased Plot No.420-A, admeasuring 300 square yards, in Survey Nos.154, 155, 156, 157 and 158, situated at Weavers Colony, Bhavana Nagar, Kapra Municipality, Keesara Mandal, Ranga Reddy District. A Sale Deed bearing document No.1607 of 2005 was executed in favour of the petitioner on 09.03.2005. Subsequently, the petitioner came to know that the extent of property was changed by the society unilaterally and without the consent of the petitioner and they have filed a Deed in the form of a Rectification Deed before the Sub-Registrar, Kapra, Ranga Reddy District (1st respondent) and got it registered. The extent of plot size is now 240 square yards. Aggrieved by the same, on 23.10.2009 legal notice was issued. As there was no response, this writ petition is filed. The petitioner sought for a direction for issuance of writ of mandamus declaring the action of the first respondent in issuing Rectification of Sale Deed in respect of the petitioner's plot for changing the extent of property unilaterally and without the consent of the petitioner and registered the

document presented before him.

2. The 2nd respondent society entered appearance and filed counter affidavit. The stand of the 2nd respondent society is that the petitioner has consented for reduction of the size of the plot and after obtaining the consent only, the society has presented the Rectification Deed before the registering authority and the document was accordingly registered. Therefore, there was no illegality committed by the second respondent in submitting the document and the document was validly registered by the first respondent. This Court, by order, dated 09.11.2009, granted interim direction as prayed for in W.P.M.P.No.30962 of 2009. The 2nd respondent has filed a Vacate Stay Petition in W.V.M.P.No.330 of 2010 praying to vacate the interim order granted on 09.11.2009 in W.P.M.P.No.30962 of 2009.

3. When the matter is taken up for consideration, the learned counsel for the petitioner in the writ petition submitted that concerning the same layout of the second respondent society, W.P.Nos.22449 of 2012 and 10665 of 2010 were instituted. Learned Single Judge of this Court, by a judgment, dated 20.12.2012, held as under:

“It is not necessary for this Court to deal with the respective rights of the parties over the plots in question. As this writ petition is confined only to the validity of the action of respondent Nos.3 and 4 in registering the rectification deeds, the consideration is confined only to the said act of respondent Nos.3 and 4. The relief granted to the petitioners in this writ petition does not in any manner affect respective rights of the petitioners, respondent No.5 and the third party allottees and they shall be free to work out their remedies in accordance with law by availing appropriate remedies.

Subject to the above directions, the writ petitions

are allowed by declaring that the registration of the rectification deeds, presented by respondent No.5 and registered by respondent Nos.3 and 4 with respect to the plots registered in favour of the petitioners has no validity in the eye of law.”

4. Learned counsel for the petitioner, therefore, submits that the subject matter of this writ petition is covered by the above decision and in view of the said decision, the decision of the registering authority in entertaining the Rectification Deed without the presence of the petitioner and without his consent is liable to be set aside. Learned counsel for the 2nd respondent, Sri N. Sreedhar Reddy, submitted that aggrieved by the decision of this Court, dated 20.12.2012, writ appeals are filed and the said writ appeals are pending consideration. However, the learned counsel for the petitioner has fairly submitted that no stay is granted in the said writ appeals.

5. Having regard to the fact that the issue in the said judgment is concerning the same layout and the grievance agitated in the said writ petition is being same, this Writ Petition is also liable to be allowed in terms thereof.

6. Accordingly, the Writ Petition is allowed by declaring the registration of the Rectification Deed presented by the second respondent and registered by the first respondent with reference to the plot registered in favour of the petitioner has no validity in the eye of law. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,

Date: 2nd February, 2015

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HON’BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.23830 of 2009

Date: 2nd February, 2015

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