

**HON'BLE SRI JUSTICE S.V.BHATT**

**W.P.No.11889 OF 2014**

**ORDER:**

The petitioner assails registered sale deed bearing No. 386 dated 25.02.2014 insofar as it relates to R.S.No.90/1C in an extent of Ac.1-58 of Poranki Village, Penamaluru Mandal, Krishna District, as invalid, without jurisdiction and that registration is completed on misrepresentation as owner of R.S.No.90/1C an extent of Ac.1-58 cents and the petitioner further prays for a relief that the petitioner is the absolute owner, possessor and enjoyer of an extent of Ac.3-16 cents in R.S.No.90/1C of Poranki Village and it is covered under the orders of Civil Court in O.S.No.59 of 2006 dated 31.01.2012.

The petitioner alleges that he is in possession and enjoyment of an extent of Ac.3-16 cents agricultural land in R.S.No.90/1C of Poranki Village, Penamaluru Mandal, Krishna District. Patta for the said extent of land is in the name of petitioner's father Sri Venkateswara Rao, s/o late Venkataramaiah. The said extent of Ac.3-16 cents in R.S.No.90/1C is covered by an order of injunction dated 31.01.2012 in I.A.No.763 of 2009 in O.S.No.59 of 2006 in the Court of V-Additional Judge, Vijayawada.

The petition land comes within the jurisdiction of Sub-Registrar, Kankipadu. On the request of Sub-Registrar, Movva, Sub-Registrar, Kankipadu furnished details of valuation to Sub-Registrar, Movva. The said letter resulted in presentation of document by one Velaga Krishna Rao for registration in respect of property situated in R.S.N.90/1C of Poranki Village, Penamaluru Mandal. On the information furnished by the Sub-Registrar, Kankipadu, registration of sale deed No.386 dated 25.02.2014 was completed by the Sub-Registrar, Movva. It is alleged that to attract the jurisdiction of Sub-Registrar, Movva, the 6<sup>th</sup> respondent included an extent of 100 sq. yards of house site in Plot No.119 in Plan No.50 of 2011, Nidamanuru Grampanchayat, falling within the jurisdiction of Sub-Registrar, Movva. The 6<sup>th</sup> respondent basing on the alleged Will dated 25.10.2004 executed by Karlapudi Venkateswara Rao after his demise on

06.01.2012 claims right and title to an extent of  
Ac.1-58 cents of land in R.S.No.90/1C of Poranki Village.

The petitioner further alleges that a suit in O.S.No.14 of 2012 is pending in the Court of XXII Fast Track Court, Vijayawada for partition. The objections against registration are that the alleged Will executed by late K.Venkateswara Rao is illegal, *non est* and inoperative. It is further contended that late K.Venakateswara Rao being the undivided member of the Hindu Joint Family consisting of the petitioner, his father and grandfather cannot execute a Will in respect of joint family properties. The petitioner places strong reliance upon the decision reported in **A.RAGHAVAMMA AND ANOTHER V. A.CHENCHAMMA AND ANOTHER.**

The Sub-Registrar, Movva/3<sup>rd</sup> respondent filed counter affidavit setting out the facts and circumstances leading to the registration of document No.386 dated 25.02.2014 and the manner of completion of registration. The reply of 3<sup>rd</sup> respondent is that the 6<sup>th</sup> respondent approached respondent No.3 by presenting a document for registration for the properties covered by Sy.No.90/1C in an extent of Ac.1-58 cents of Poranki Village. The vendor claims right and title through registered Will dated 20.10.2004 said to have been executed by one Karlapudi Venkateswara Rao. The testator is shown as died on 06.01.2012. Through the instant sale deed, property covered by Plot No. Plot No.119 is also included by the 6<sup>th</sup> respondent. Section 28 of the Registration Act is relied upon to justify registration of immoveable properties situated outside the jurisdiction of 3<sup>rd</sup> respondent. According to 3<sup>rd</sup> respondent, as the immoveable properties are situated within the jurisdiction of more than one Sub-Registrar, the 3<sup>rd</sup> respondent obtained information from the Sub-Registrar, Kankipadu and after examining the relevant document, claims to have completed the registration.

The short and long of 3<sup>rd</sup> respondent's objection is that the registration of sale deed No.386 dated 25.02.2014 is completed in accordance with the provisions of the Registration Act and no exception can be taken to the registration.

The 7<sup>th</sup> respondent filed counter affidavit explaining the circumstances under which the registration is taken up and completed by the 3<sup>rd</sup> respondent. The 7<sup>th</sup> respondent is the purchaser from the 6<sup>th</sup> respondent. The consideration of case on merits is not within the scope of the present writ petition, much less while considering the writ prayer to declare document bearing No.386 dated 25.02.2014 as illegal and invalid. The writ petition cannot be converted into a suit for appropriate declaratory relief for the property covered by R.S.No.90/1C in an extent of Ac.1-58 cents of Poranki Village.

The petitioner prays for invalidation of registration of subject document on two grounds viz., that the petitioner's grandfather is not entitled to execute a Will in favour of 6<sup>th</sup> respondent and that by misrepresentation the sale deed is registered within the territorial jurisdiction of 3<sup>rd</sup> respondent though the property is not situated within the jurisdiction of 3<sup>rd</sup> respondent.

The legal objections of the 7<sup>th</sup> respondent are primarily on the maintainability of the writ petition. For the said purpose, the 7<sup>th</sup> respondent relies upon the decision of this Court reported in

**SRI VARAHA LAKSHMI NARASIMHA SWAMY VARI DEVASTHANAM, SIMHACHALAM, VISAKHAPATNAM DISTRICT V. MATTA SATYA RAO AND OTHERS.**

The short point for consideration is - whether the remedy under Article 226 of the Constitution of India is available to petitioner for the writ prayer.

Section 31 of the Specific Relief Act reads as follows:

When cancellation may be ordered.—

[\(1\)](#) Any person against whom a written instrument is void or voidable, and who has reasonable apprehension that such instrument, if left outstanding may cause him serious injury, may sue to have it adjudged

void or voidable; and the court may, in its discretion, so adjudge it and order it to be delivered up and cancelled.

[\(2\)](#) If the instrument has been registered under the Indian Registration Act, 1908 (16 of 1908), the court shall also send a copy of its decree to the officer in whose office the instrument has been so registered; and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

Section 34 provides for declaratory reliefs. Either the writ prayer or the circumstances stated by the petitioner are matters to be considered in a suit filed by an aggrieved party. The section referred to above provides for legal remedies to a party faced

with the circumstances stated therein. The law on this aspect is equally well settled and needs no fresh consideration.

From Section 28 of the Registration Act, it is clear that the Sub-Registrar of one particular jurisdiction can also entertain and register the immoveable property situated in the jurisdiction of another

Sub-Registrar, provided the document presented for registration includes immoveable property situated within the registering authority, is included in the said document. It is well settled that executing a document or registering the document in favour of third party itself will not create a new right, title or interest. At best, it conveys to transferee whatever lawful right the vendor has.

For the reasons already stated, the law provides for entertaining registration of a document by Sub-Registrar, Movva as well, subject to satisfaction of a few conditions. In the case on hand, the inclusion of plot certainly has given jurisdiction to respondent No.3 to entertain the document for registration.

This Court is not expressing any view on the allegation of misrepresentation pleaded by petitioner. These are matters for consideration by a competent Civil Court. The petitioner is free to take appropriate action against document No.386 of 2014 and all the legal and factual objections available in this behalf are left open for consideration by the competent Court.

The writ petition is dismissed as not maintainable. There shall be no order as to

costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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**S.V.BHATT, J**

08<sup>th</sup> April, 2015

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