

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.2883 of 2016

ORDER :

Vide the present petition, the petitioner has assailed the order dated 4th March 2016, whereby, I.A.No.3357 of 2015 in L.G.O.P.No.164 of 2012 filed by the petitioner, has been dismissed.

2. The petitioner filed the aforesaid application under Order 16 Rule 3 CPC and under Section 151 CPC seeking to issue summons to the Commissioner, Guntur Municipal Corporation, Guntur, to produce the relevant allotment register, if any, relevant documents in respect of the petition schedule property and to give evidence. To deal the aforesaid application, the learned Principal District Judge, Guntur, framed issue as under :

“whether the petitioner, who is the respondent in LGOP is entitled to seek issuance of summons to the Commissioner, Guntur Municipal Corporation, Guntur, to produce relevant allotment register concerning to the schedule mentioned property and to give evidence ?”

3. On perusal of the impugned order, it is emerged that the LGOP was filed originally by the father of the respondents Ravuri Mohana Parvateesam, pleading that the Guntur Municipal Corporation, with the cooperation and help of HUDCO, built residential portions and allotted the petition schedule property to one Ravuri Koteswara Rao, the father of the original petitioner of LGOP on lottery basis. He paid the requisite fee and became the absolute owner. But the petitioner had encroached upon the said property, and filed a suit O.S.No.119 of 2011 on the file of

I-Additional Junior Civil Judge, Guntur against him and another by producing a possessory agreement said to have been

executed in his favour.

4. The case before the Court below of the petitioner was that he had purchased the disputed property from the father of the original LGOP petitioner Ravuri Koteswara Rao under a possessory agreement of sale. It is the original LGOP petitioner, whereas the 1st respondent termed the said possessory agreement of sale as false one in the LGOP. While the proceedings of the LGOP were under way, the petitioner has filed an application under Section 45 of the Indian Stamp Duty Act to refer the possessory sale agreement on the basis of which he is claiming right and possession having obtained from the father of the original LGOP petitioner, for collecting stamp duty and penalty. It was numbered as I.A.No.1835 of 2014 and on filing the counter by the legal heirs of original LGOP petitioner whereby stated the very possessory agreement that was a forged one by forging the signature of the father of the original LGOP petitioner, which is evident from the fact when the said document is dated 11.03.2008, as disclosed from the death certificate of him, the father of the original LGOP petitioner had passed away on 18.09.2001 itself. After considering the objection, the petition was dismissed by this Court.

5. Being aggrieved, the petitioner approached this Court seeking to revise the said order, but this Court declined and dismissed the Civil Revision Petition vide C.R.P.No.3913 of 2014, dated 31st December 2014.

6. It is clear from the above noting that the petitioner himself has claimed the father of the original LGOP petitioner had obtained right in the disputed property through the Municipal

Commissioner. Therefore, the petitioner cannot take the contrary ground that said property was not allotted by the Municipal Commissioner. Moreover, the summoning of Municipal Commissioner to reiterate the very plea of the petitioner is not necessary, since it is also the respondents' case that the father of original LGOP petitioner had obtained right over the disputed property from the Municipal Commissioner.

7. Admittedly, the petitioner has filed the application seeking directions to summon the Municipal Commissioner, Guntur, to produce the relevant allotment register, if any, relevant documents in respect of the petition schedule property and to give evidence. In view of above, I find no discrepancy in the order passed by the Court below.

8. Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

9. Before parting with the present petition, it is pertinent to mention here that the Right to Information Act is in force. The petitioner could and can sought any document from the concerned Department if he feel so. Needless to state that if he succeed in getting any of the documents to be proved before the Court below, at that stage, he may file application for the said purpose.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

21st July 2016

ajr