

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.34989 OF 2016

ORDER:

This writ petition is filed questioning the action of the 2nd respondent in rejecting to grant the mutation of house property bearing D.No.1-104-28/2 and 1-104-29 of Plot No.MIG-17/5 of M.V.P Colony Layout, Visakhapatnam.

Heard Sri Vedula Venkata Ramana, learned senior counsel appearing on behalf of the petitioner and Sri S. Lakshminarayana Reddy, learned standing counsel for the respondents 1 and 2.

It is the case of the petitioner that the petitioner being the grand-son of 3rd respondent he was gifted with the above said property under a registered gift deed dated 31.03.2016 and based on the gift deed, the petitioner approached the respondents 1 and 2 seeking to mutate his name in the municipal records in terms of Section 208 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, "the Act"). The same has been rejected with the endorsement dated 25.07.2016, by the respondents 1 and 2.

It is the contention of Sri Vedula Venkata Ramana, learned senior counsel appearing on behalf of the petitioner that the nature of the objection stated by the respondents 1 and 2 are irrelevant and cannot be the basis for rejection for granting mutation based on the gift deed. Even assuming that the 3rd respondent had filed objections with respect to the gift which has been completed on account of the gift having been accepted as on the date of allegation and as on the date of rejection, the property in question is the property of the petitioner. Once a gift is effected and given effect, the original donar would not have any right in the property. If at all the gift deed has to be invalidated there are independent separate proceedings which are required to be initiated. In the absence of there being any declaration that the validity or otherwise of the gift cannot be gone into by the respondents 1 and 2.

Learned standing counsel for the respondents 1 and 2 opposes the writ petition.

The scope of enquiry of the authorities under the provisions of the Act are limited. It may be borne in mind so far as the Corporation is concerned, it is only for the purpose of assessment of property tax, the limited enquiry is required to be made by the authorities. In the present case on hand, it is not in dispute that the petitioner had approached the Corporation seeking to mutate his name in the municipal records based on a gift deed. The reasons which are stated by the respondents 1 and 2, go to show that the title of the petitioner is doubted based on a complaint made by the donar that too the gift deed has been obtained by the petitioner by misleading the complainant. It may be noted that the petitioner is the maternal grand son of the complainant and it is also not the case of the complainant that the gift deed was not executed by her. The scope of the enquiry is being limited and the validity or otherwise of the gift deed being not vested with the respondent No.3, the rejection made is on irrelevant considerations.

In those circumstances, the proceedings dated 25.07.2016, issued by the 2nd respondent rejecting to grant mutation of the property of the petitioner deserve to be set aside.

Accordingly, the writ petition is allowed setting aside the proceedings dated 25.07.2016, issued by the 2nd respondent rejecting to grant mutation of the property of the petitioner and the respondents 1 and 2 shall consider the application of the petitioner, conduct a denova enquiry and pass appropriate orders in accordance with law. No costs.

As a sequel to disposal of the writ petition, WP.M.Ps if any pending shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

Dated:18.10.2016
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