

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

WRIT PETITION NO.3087 OF 2016

DATED:08-02-2016

Between:

Ch. Durga Prasad ... Petitioner

And

The State of Telangana
Rep. by its Secretary
Department of Municipal Administration &
Urban Development
Secretariat
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. P. Kesava Rao

COUNSEL FOR RESPONDENT NO.1: A.G.P. for Municipal
Administration

(TS)

THE COURT MADE THE FOLLOWING:

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ORDER:

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This writ petition is filed to set aside proceedings in Rc. No.A1/2383/2014, dt.29.10.2015, of respondent No.2, whereby the petitioner was informed that since the petitioner's vendor did not obtain sale deed from the Revenue Department, which has sold the property in public auction to him, the name of the petitioner cannot be mutated.

The facts in brief are that one person by name Puli Ramaswamy fell due of excise arrears to the State of Andhra Pradesh. He was the owner of the property bearing M.No.13-1-9, corresponding to old No.13-8(8-4), situated at Palvoncha Town, Khammam District. In execution of the certificate for recovery of the arrears, the property was put to auction in which the petitioner's vendor was declared as the highest bidder and auction was knocked down in his favour for Rs.5,45,000/-. On 11.02.2002, the auction was confirmed by the District Collector, and on 27.06.2003 the Revenue Department has issued the Sale Certificate to the petitioner's vendor in proceedings in Rc.No.A/3615/2001. The petitioner has thereafter purchased the property under a registered sale deed dt.11.08.2014. Consequent thereto, he has approached respondent No.2 with an application for mutation of his name in the property register. On considering the said application, respondent No.2 has issued the impugned endorsement.

On 03.02.2016, this Court has adjourned the case to know as to in whose name the property is standing. Mr. N. Praveen Kumar, learned Standing Counsel for respondent No.2 – Municipality, on instructions, submitted that the property is still in the name of Puli Ramaswamy. The learned Standing Counsel also submitted that as pleaded by the petitioner respondent No.3, who is the son of late Puli Ramaswamy, has also made a representation to mutate his name in

the property register and that so far his name has not been mutated.

While this Court is not concerned as to whether the request of respondent No.3 deserves to be accepted or the same is liable to be rejected, in the absence of a registered sale deed executed by the Revenue Department in favour of the vendor of the petitioner, the title in the property will not pass to the petitioner's vendor. Law is well settled that no person can pass on a better title than what is vested in him. Hence, technically respondent No.2 is correct in taking the view that the Sale Certificate will not convey title, unless appropriate sale deed is executed. Therefore, the impugned order cannot be found fault with. However, this order cannot be understood as this Court expressing any opinion on the entitlement or otherwise of respondent No.3 to mutate his name because that question does not arise in this writ petition. It is appropriate that respondent No.2 does not mutate the property in the name of any person either till a sale deed is executed by the Government in favour of the petitioner's vendor, or any competent court of law issues a direction for mutation in favour of either of the parties among the petitioner and respondent No.3.

Subject to the above observations, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P. No.3909 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

08-02-2016

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