

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 9906 of 2012

Order:

The petitioner states that she is the absolute owner and possessor of residential house bearing No.5-186 with annexed open place admeasuring 121 sq. yards, situated in Shabunagar, Miryalaguda Town, Nalgonda district, having purchased the same under a registered sale deed in the year 2005. The name of the petitioner was mutated in the municipal records and the petitioner was paying regular taxes. It is the further case of the petitioner that her son was working as a clerk in the rice mill belonging to the third respondent and there was an allegation of misappropriation of amount of Rs.20,50,000/- while he was working as a clerk. A criminal complaint was lodged against her son and he was arrested on 31.07.2010. The third respondent with the active support of the police took the petitioner, her husband and her daughter on 21.07.2010 to the office of the Sub-Registrar, Miryalaguda and made them to sign on some documents, which is now treated as Agreement of Sale-cum-GPA for selling the house bearing No.5-186 in favour of the third respondent. After release of the son of the petitioner, the petitioner filed a suit for cancellation of registered Agreement of Sale-cum-GPA and also for perpetual injunction in the Court of the Senior Civil Judge, Miryalaguda in O.S.No.147 of 2010 and the said suit is pending. In the meanwhile, the third respondent appears to have transferred the property in favour of the fourth respondent on 27.08.2010 and the fourth respondent applied to the respondents 1 and 2 for mutation of his name in the municipal records. The petitioner states that without issuing any notice to her, the name of the fourth respondent was mutated in the municipal records. The said

action is contrary to the rules called 'Alteration of Ownership of Property in Assessment Books Rules, 1966'. The petitioner issued a notice through her counsel on 03.11.2011 requesting for deletion of the name of the fourth respondent and when no action was taken, the present Writ Petition was filed.

The first respondent filed a counter affidavit stating that the name of the fourth respondent was mutated on the basis of registered sale deed dated 27.08.2010 and the registered Agreement of Sale-cum-GPA dated 12.07.2010. Since no objection was received from the writ petitioner before mutation of the name of the fourth respondent, the name of the fourth respondent was mutated based on the said documents. In the notice issued by the petitioner only the pendency of the suit in O.S.No.225 of 2011 was mentioned, but there was no request for cancellation of the name of the fourth respondent.

The fourth respondent filed a separate counter affidavit stating that he is a *bona fide* purchaser for valuable consideration of the said house property and after purchase of the said property he submitted an application to the first respondent for mutation of his name in the municipal records. The Commissioner issued proceedings on 04.02.2011 mutating his name. It is further stated that if the petitioner has got any grievance for mutation of the name of the fourth respondent; she should have filed an appeal under Rule 7 of the Alteration of Ownership of Property in Assessment Books Rules, 1966 to the Council of the Municipality and no such appeal was filed.

In view of the above averments, it is clear that the petitioner is the original owner of House bearing No.5-186, situated in Shabunagar, Miryalaguda Town, Nalgonda district and the third respondent who is a

GPA Holder of the petitioner executed a registered sale deed in favour of the fourth respondent. The fourth respondent applied for mutation of his name in the municipal records and on the basis of registered sale deed and GPA the name of the fourth respondent was mutated. Now, the petitioner appears to have filed two suits for cancelling the GPA and registered sale deed executed in favour of the fourth respondent on 27.08.2010. As on today the name of the fourth respondent is mutated on the basis of the registered documents. Though proper procedure was not followed by the first respondent while mutating the name of the fourth respondent, in view of the registered documents and mutation of the name of the fourth respondent which is existing for the last four years, this Court is not inclined to disturb the said name. However, the continuance of the name of the fourth respondent in the records of the first respondent will be subject to the decree to be passed in O.S.Nos.147 of 2010 and 225 of 2011 on the file of the learned Senior Civil Judge, Miryalaguda.

With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 20.12.2016
Nsr