

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.4540 of 2016

Date:12.02.2016

Between:

Yennam Balakotaiah,
@ Pedda Balakotaiah,
S/o Chinna Kotaiah

..... Petitioner

And:

The State of A.P., repled by its
Principal Secretary, Panchayat Raj
Department, Hyderabad and five others.

.....Respondents

Counsel for the Petitioner: Mr. N.Ravi Prasad

Counsel for Respondent Nos.1 & 3: GP for Panchayat Raj
(AP)

Counsel for Respondent Nos.2 & 4: AGP for Revenue (AP)

The Court made the following:

ORDER:

Feeling aggrieved by endorsement, vide proceedings in RC.No. /1/2015, dated 09.3.2015, of respondent No.5, the petitioner filed this Writ Petition.

The petitioner pleaded that respondent No.6 is his brother; that their father has left behind certain ancestral

properties; and that in respect of the house property bearing D.No.5/43, Kalagotla Village, Salakalalveedu Gram Panchayat, Besthavaripeta, Prakasam District (for short 'the subject property'), their father had executed an unregistered Will in his favour. He has further averred that he has filed O.S.No.73 of 2008 in the Court of the Senior Civil Judge, Markapur for partition and separate possession of his share in various joint family properties excluding the subject property and that the said suit is pending.

Based on the above-mentioned Will, the petitioner has filed an application before respondent No.5 for mutation of the his name in respect of the subject property and that through the impugned endorsement, respondents No.5 has informed both parties that as there are rival claims in respect of the subject property, it is desirable that both parties shall get their rights adjudicated by a competent civil Court.

The fact that respondents No.6 made a claim for a share in the subject property before respondent No.5 is not disputed by the learned counsel for the petitioner.

On these facts, respondent No.5 has rightly relegated both the parties to the legal remedies before the competent civil Court for adjudication as, such disputes cannot be adjudicated by an executive functionary such as respondent No.5, more so when the petitioner's claim is based on an unregistered Will.

In this view of the matter, I do not find any illegality in the impugned endorsement and the Writ Petition is, accordingly, dismissed with liberty to the petitioner to avail appropriate legal remedy for getting his rights declared over the subject property before he seeks mutation of the same in his name.

As a sequel to dismissal of the Writ Petition, W.P.M.P.No.5815 of 2016 is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*12th February, 2016
DR*