

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.19419 of 2012

ORDER:

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Heard Sri Y.Ramatirtha, for petitioner, the Assistant Government Pleader for Revenue for respondents 1 and 2 and Sri Ambadipudi Satyanarayana for 3rd respondent.

The petitioner prays for Mandamus declaring proceedings Rc.No.A12/2467/2009, dated 04-04-2012, as illegal, arbitrary and violative of principles of natural justice.

Respondent Nos.3 and 4 are impleaded vide order dated 08-03-2016.

Admittedly, the petitioner and respondents 3 and 4 are parties in O.S.Nos.236 of 2007 and 238 of 2007 on the file of the Additional Senior Civil Judge, Tenali.

The suits are filed for the reliefs of cancellation of gift deed executed by the mother of the petitioner and also the sale deed executed by petitioner in favour of third party. One of the relevant facts for consideration in the said suits is the date of demise of one Thatakolla Nagaiah.

The operative portion of the order impugned in the writ petition reads as follows:-

“In view of the above circumstances, the proceedings issued earlier vide this office reference Rc.A4/2882/07, dt.24.10.2007 under Section 13(2) of the Registration of Births & Deaths Act, 1969 pertaining to enter the late death entry of Thatakolla Nagaiah, in exercise of the powers conferred U/s.15 of the said Act are hereby cancelled. The Registrar of Births & Deaths, Vijayawada Municipal Corporation is hereby directed to cancel the late death entry of date of death of Thatakolla Nagaiah as entered 25.7.1972 in Vijayawada

Municipal Corporation Death Records.

The Tahsildar Vijayawada urban is directed to initiate criminal action against the applicant Kadiyam Murali Krishna for cheating the officials/misrepresenting the facts with fabricated evidence, with a malafide intention to get the death certificate of Thatakolla Nagaiah who was alive in the year 1972.”

Learned counsel appearing for the parties fairly state that since the parties are working out their remedies in the suits referred to above, liberty to request the trial court for framing additional issue on the date of demise of said Thatakolla Nagaiah may be given. The additional issue when framed, the parties will adduce evidence and a finding is recorded.

This court is of the view that the suggestion made by the learned counsel appearing for the parties can be considered and writ petition can be disposed of and have consented to the order now passed by this Court.

It is further brought to the notice of this Court that C.C.No.40 of 2013 on the file of the I Additional Chief Metropolitan Magistrate, Vijayawada, is pending under Sections 193, 196, 417 and 420 IPC against the writ petitioner.

After perusing the impugned proceedings, this court is of the view that the merits now canvassed in the writ petition need not be gone into and as suggested by the learned counsel appearing for parties, prayer for framing additional issue in the pending suits can be made by the petitioner herein and the trial court will consider and pass appropriate order for framing additional issue in this behalf.

Further, the criminal case is filed against the petitioner and the petitioner prays for grant of stay of all further proceedings in the criminal case.

This court is of the view that granting stay of all further proceedings cannot be commensurate to the expeditious disposal of the criminal case but to balance the rival position and the observations made supra, the I Additional Chief Metropolitan Magistrate, Vijayawada, is given liberty to proceed with the criminal case, complete trial except hearing the arguments and pronouncement of judgment. Further steps in this behalf by the I Additional Chief Metropolitan Magistrate can be taken with the disposal of O.S.Nos.236 of 2007 and 238 of 2007 on the file of Additional Senior Civil Judge, Tenali.

The writ petition is accordingly disposed of as indicated above.
No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

S. V. BHATT, J

Dt: 19-07-2016
Prv

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