

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.9870 OF 2016

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 1st respondent in not taking action against the 2nd respondent on the complaint dated 03.02.2016 made by the petitioner under Section 68 of the Registration Act, 1908.

The case of the petitioner is that her husband predeceased her father-in-law in 1997 and her father-in-law expired in 2001 and that she bequeathed properties to the extent of 50% along with her brother-in-law by virtue of legal heir certificate. She is in possession of the properties fell to her share since 16 years. While so, pending suit filed by the daughters of her brother-in-law in OS.No.590/2013 against the petitioner, the brother-in-law of the petitioner has alienated the entire properties to third parties by way of General Power of Attorney, without consent and signature of the petitioner on the document. Aggrieved by the action of the 2nd respondent in registering the said GPA in favour of the third party, the petitioner lodged a police complaint against her brother-in-law and also filed writ petition No.38563 of 2015, and the said writ petition was dismissed giving liberty to the petitioner to avail appropriate remedy available under law. Basing on the same, the petitioner filed a complaint dated 03.02.2016 before the 1st respondent under Section 68 of the Registration Act, 1908 against the 2nd respondent. Since the 1st respondent failed to take action on the said complaint, present writ petition is filed.

Heard learned counsel for the petitioner and learned

Assistant Government Pleader for Revenue.

In the affidavit filed in support of this writ petition, no property particulars were mentioned. The affected parties were not made as parties in the writ petition. This Court also dismissed WP.No.38563 of 2015 filed by the petitioner holding as follows;

“ I am unable to see any legal foundation for such a claim as the Registrar, who registers the document under the Registration Act has power to examine the document from the stand point of compliance under the Indian Stamp Act and Indian Registration Act and any such compliance with the same, he is bound to register the document. Registering authority, therefore, cannot examine the title of the person executing the document and refuse to register the document on finding that the person executing the General Power of Attorney does not have exclusive title. Since such enquiry into the title is falls outside the jurisdiction of the registering authority, I am not inclined to entertain the writ petition.”

The petitioner filed complaint under Section 68 of the Indian Registration Act. But, section 68 of the Act is general in nature. More so, petitioner's writ petition No.38563 of 2015 was dismissed holding that the registering authority has no power to examine the title of the person executing the document. In view of the same, I do not see any merits in the writ petition.

Accordingly, the writ petition is dismissed. However, if the petitioner has any grievance, he has to approach the concerned Civil Court under Section 31 of the Specific Relief Act. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

28.03.2016
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A.RAJASHEKER REDDY, J