

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.8377 OF 2008

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to declare the proceedings No.MV/220/08 dated 24.03.2008 issued by the respondent as illegal and arbitrary.

The case of the petitioners, in brief, is as follows:

The petitioners herein purchased land admeasuring 432 Sq.yards situated in survey Nos.32 and 31 for a sale consideration of Rs.8,32,000/- and Rs.7,13,000/- on 10.10.2005 and 06.12.2005 vide document Nos.6772/05 and 7669/05 respectively, from one Usa Madhu Babu, who purchased the same under document No.4878/2004 dated 30.08.2004 from one Kanugala Ram Murthy represented through GPA holder Shaik Karimulla. While so, one Savitri Devi and two others filed O.S.No.112 of 2006 on the file of the Additional Senior Civil Judge, Ongole, against petitioners and their vendor claiming certain portion of vacant land. The plaintiffs in O.S.No.112 of 2016 also sent a notice to the petitioners on 12.06.2006. Basing on a representation made by said Savitri Devi, the respondent issued notice dated 20.02.2008 in Proforma-II stating that when on spot inspection of the property covered by two registered sale deeds bearing Nos.6772/2005 and 7669/2005, it was noticed that slabs to an extent of 1291 square feet and 779 square feet respectively were laid and that the writ petitioners have committed an offence punishable under Section 64 of Indian Stamps Act by undervaluing the property. Pursuant to the same, on 10.03.2008,

the petitioners have submitted their replies separately stating that after the purchase of vacant land, they raised small structure in order to protect the property from encroachers. Thereafter, the impugned order dated 24.03.2008 came to be passed sanctioning prosecution against petitioners. Aggrieved by the same, present writ petition came to be filed.

Heard the learned counsel for the petitioners and learned Government Pleader for Stamps and Registration. Perused the material on record.

The main ground urged by the learned counsel for the petitioners is that the entire action has been initiated basing on the representation made by one Savitri, which according to the petitioners was made with a malafide intention. The second ground raised by the learned counsel for the petitioners is that no notice has been given to the petitioner before passing the impugned proceedings and everything happened behind their back.

The same is disputed by the learned GP.

Insofar as the first ground is concerned, it is to be noted that said Savitri was not made a party to the writ petition, so as to answer the allegations made against her. Therefore, the petitioners were not justified in questioning the alleged malafide or motivated action against the petitioners. Insofar as the second plea, that everything happened behind the back of the petitioners, it is to be noted that initially a notice dated 20.02.2008 came to be issued giving opportunity to the petitioners to show cause as to

why the contents of the sale deeds vary with the report of inspection conducted by the respondent. It is to be noted here that though the registered documents show that the property is a vacant land, the spot inspection report shows existence of certain structures therein.

From the above, the dispute appears to be 'whether the structures found by the respondent during the inspection of the property are raised after the land was purchased by the petitioners or were already in existence by the time of purchase?'

These are the disputed questions of fact, which cannot be adjudicated by this Court in the writ petition filed by invoking Article 226 of the Constitution of India.

At this stage, the learned counsel for the petitioners would submit that there is appeal provision provided in the Act and the petitioners may be permitted to avail the same.

In view of the same, the petitioners shall avail the remedy of appeal, by challenging the impugned order, in which event, the authorities shall deal with the same in accordance with law. Having regard to facts in issue, *status quo* as on today shall be maintained for a period of eight weeks from today.

Accordingly, the Writ Petition is disposed of.

Consequently, miscellaneous petitions pending in this writ petition, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

13.09.2017
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