

The Hon'ble Sri Justice A.Rajasheker Reddy

Writ Petition No.5854 of 2017

Order:

This Writ Petition is filed for a Mandamus to declare the action of respondent Nos.4 and 3 in entertaining a sale deed for registration and mutation respectively in respect of the house bearing No.43/127 admeasuring 1125.74 square yards situated at Kurnool Municipal Corporation limits in Sy.Nos.154, 127, 125/2, 155/1-A, 126, 128/2 of Sankarbagh, 43rd ward, Kurnool District (for short 'the subject property'), as illegal and arbitrary. The petitioners sought for a consequential direction to respondent No.3 not to register the said document.

It is the pleaded case of the petitioners, who are the legal representatives of the deceased Dr.Rachapudi Danamayya, that they are the actual owners of the subject property having purchased the same from their vendors *vide* document No.16854/06, dated 11-12-2006, and that they have been in possession of the same for more than 40 years. It is their grievance that respondent No.5, in collusion with their vendors, created a fraudulent document and presented the same for mutation in the municipal records. Having come to know

about the same on receipt of notice from the municipal authorities, the petitioners got issued a notice to respondent No.4- Joint Sub-Registrar, Kallur, and raised an objection before the municipal authorities not to act upon the said document. Apprehending registration of the said document by respondent No.4 and mutation of the name of respondent No.5 in the municipal records by respondent No.3, the petitioners have filed the present Writ Petition.

Heard the learned Counsel for the petitioners and the learned Assistant Government Pleader for Revenue (AP) appearing for respondent Nos.1, 2 and 4, and Mr.S.D.Goud, learned Standing Counsel for respondent No.3- Municipal Corporation.

Learned Counsel for the petitioners submitted that under Rule 26 of the A.P.Rules under the Registration Act, 1908, every document shall, before acceptance of registration, be examined by the Registering Officer to ensure that all the requirements prescribed in the Act and the Rules have been complied with by the Registration authorities. He further submitted that respondent No.4 cannot register the fraudulent document and based on such document, respondent No.3

cannot mutate the name of respondent No.5 with respect to the subject property in the municipal records.

It is obligatory on the part of respondent Nos.3 and 4 to follow the procedure prescribed under Rule 26 of the Rules as and when any document is presented for registration and mutation and if the document stated to have been presented for mutation is a forged or fabricated one, respondent No.3 cannot mutate the name of the respondent No.5 with respect to the subject property in the municipal records. However, as the petitioners are stated to have already filed their objection to the notice issued by respondent No.3, the latter shall consider the same and appropriate order thereon may be passed. If the petitioners are still aggrieved by the same, they can challenge the same.

The dispute between the parties being a civil dispute, this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot go into such disputed question of fact and grant relief to the petitioners. The petitioners have an effective alternate remedy to approach Civil Court for redressal of their grievance.

Subject to the above observations, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.Nos.7142 and 7143 of 2017, filed by the petitioners for interim relief, are disposed of as infructuous.

(A.Rajasheker Reddy, J)

Dt: 20th February, 2017

Note:
Furnish CC in three days.
(B/o)
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