

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 45785 of 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue. With the consent of both the parties, the writ petition is disposed of at the admission stage.

2. The present Writ Petition came to be filed seeking issuance of writ of Mandamus directing respondent No.2 to return the Court Document dated 29.01.2003, which was sent by the Court of Senior Civil Judge, Yelamanchili, for determination of stamp duty and penalty on such document by declaring the action of respondent No.2 in not returning the document after determination of stamp duty and penalty payable, as illegal and arbitrary.

3. The facts in issue are as under:

The father of the petitioner filed O.S.No.38 of 2005 on the file of the Senior Civil Judge, Yelamanchili seeking declaration and possession in respect of certain properties. The said suit was decreed on 30.09.2009 in favour of the father of the petitioner. Aggrieved by the same, the petitioner preferred an appeal in A.S.No.280 of 2009 before the lower appellate Court, but the same was dismissed on 25.06.2010. The second appeal which was preferred before the said Court was dismissed at the admission stage. Thereafter, the father of the petitioner filed I.A.No.384 of 2010 for ascertaining mesne profits over the Schedule-A properties. Pending the said I.A., the father of the petitioner expired and the sister of the petitioner came up with I.A.No.706 of 2012 alleging that her father executed Will dated 28.06.2008 as per which the properties devolved upon their mother by name Sekharamantri Padmavathi. Hence, it is urged that

she has to be added as second petitioner in I.A.No.384 of 2010 to continue the prosecution or the proceedings, etc. During enquiry in I.A.No.706 of 2012, the petitioner produced a Will scribed and executed by his father during his life time to disprove the case of his sister. When the document was sought to be marked, learned counsel appearing for the sister of the petitioner raised objection with regard to marking of the said document stating that it is not a Will and as such it requires stamp duty and registration. After hearing both sides, learned Senior Civil Judge held that the said document is a Gift Settlement Deed of the father of the petitioner and since it is not executed on proper non judicial stamp papers and registered it, it requires registration. Thereafter, the Senior Civil Judge passed order on 10.08.2015 for sending of the document for registration and for determination of stamp duty and penalty to be paid. Though the document was sent, the second respondent, who is Sub-Registrar, did not take any action. After a considerable period of time, the Senior Civil Judge, Yelamanchili addressed another letter reminding to send back the Court document after determining the stamp duty and penalty, but there was no response from respondent No.2. The action of respondent No.2 in not returning the document, which was sent for determination of stamp duty and penalty payable, lead to filing of the present writ petition.

4. Learned Government Pleader, on instructions would submit that the second respondent may be directed to follow due process of law and take steps immediately for sending the document back to the Court of Senior Civil Judge, after complying with the requirements, for which it has been sent to him. The said fact is not seriously disputed by the learned counsel for the petitioner.

5. Having regard to the above, the present writ petition is disposed of directing the second respondent to complete the process of determining

the stamp duty and penalty payable on the document in dispute, in accordance with law, and then send back the document on or before 20.01.2017, since the Civil Court is said to have posted the matter to that day. There shall be no order as to costs.

6. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

04.01.2017
vhb

