

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.36488 OF 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking the following relief:

“... to issue a Writ order or direction more particularly one in the nature of Mandamus declare the orders passed by the 2nd Respondent vide proceedings Proc.Roc. No. A1/871/2017-2018, dated 30-08-2017, as illegal, highly arbitrary and in gross violation of principles of Natural justice and provisions of Constitution of India and Hyderabad Municipal Corporation Act, consequently retain the name of petitioners father Mr. Sardar Hussain in municipal property tax demand register with regard to the H.No. 1-12-14/10 situated at Shantinagar, College Colony, Adilabad and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard Sri Mirza Safiulla Baig, learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development Authority representing respondent No.1 and Sri N. Praveen Kumar, learned Standing Counsel representing respondent No.2. I have perused the material record

3. Since the Writ Petition is being disposed of at the stage of admission, respondent No.3 is not served with any notice.

4. The submissions and grievance of the writ petitioner are thus:

“The petitioner and the husband of respondent No.3, late Mohd. Iqbal Hussain, are brothers and sons of late Sardar Hussain. The subject property originally stood in the name of late Sardar Hussain i.e., father of the writ petitioner, in the municipal records. Having come to know that the property is mutated in the name of respondent No.3, the petitioner made a complaint, dated 15.09.2015, to respondent No.2, marking a copy of the same to respondent No.3. Pursuant thereto, respondent No.2 issued a show-cause notice, dated 04.08.2016, to respondent No.3 calling upon her to submit the documents, if any, to substantiate her claim as owner of the subject property. Thereafter, as respondent No.3 failed to produce any valid documents, order, dated 16.05.2017, was passed by respondent No.2 cancelling the mutation in favour of respondent No.3 and retaining the name of the original owner, late Sardar Hussain, in respect of the subject property. Thereafter, it appears, that the impugned order is passed again retaining the name of respondent No.3 and deleting the name of late Sardar Hussain in respect of the subject property in the municipal records. The only grievance of the petitioner is that the said impugned order, dated 30.08.2017, was passed by respondent No.2 without issuing notice to the petitioner and therefore, the said order is unsustainable.”

5. Learned Standing Counsel appearing for respondent No.2 would submit that after obtaining legal opinion and considering the documents furnished by both the parties, the impugned order was passed and that while passing the said order both the parties are informed to approach a competent civil Court in case they are

aggrieved of the said order and therefore, the order impugned is sustainable.

6. Learned counsel for the petitioner would submit that on the complaint of the petitioner, when action was taken for restoring the name of late Sardar Hussain, a show-cause notice was issued to respondent No.3, whereas while passing the impugned order restoring the name of respondent No.3 and deleting the name of late Sardar Hussain in respect of the subject property, no such procedure was followed and no show-cause notice was issued to the petitioner and as such, the order impugned is unsustainable.

7. Having regard to the facts and submissions, the Writ Petition is disposed of directing respondent No.2 to consider the issue afresh, after issuing notice to both the petitioner and respondent No.3 and affording an opportunity of hearing to both the parties, and pass appropriate orders as to mutation of the names in respect of the subject property in the municipal records. Respondent No.2 shall complete the said exercise within a period of two months from the date of receipt of a copy of this order. Till such time, the order impugned shall stand suspended.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

November 01, 2017
MD