

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

W.P.No.900 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a direction against respondents 2, 3 and 6 not to allow any constructions in the land admeasuring Ac.14.37 guntas falling in Survey No.707, 743 and 745 of Siddanthi Shamshabad Village and Mandal, Ranga Reddy District and consequently direct respondents 4 and 5 not to entertain registration in respect of the said land.

It is the contention of the petitioner that one Khaleel-ur-Rahman was the owner and pattedar of lands admeasuring Ac.14.37 guntas apart from several other lands in Survey Nos.707, 743 and 745 of Siddanthi Shamshabad Village and Mandal, Ranga Reddy District. During his life time, he bequeathed the property by way of Hiba i.e. Memorandum of Gift in favour of his two sons and accordingly, the vendors of the petitioner have become absolute owners and they in turn sold the lands in favour of the petitioner by way of unregistered sale deed dated 26.12.2005 and the same was later impounded by paying stamp duty and penalty in File No.9374/AR/07, dated 13.06.2007 and thus, the petitioner became absolute owner of the property.

It is also specifically contended that there are several disputes before the civil Court regarding right over the property and also applied for mutation of the names of the petitioner in the revenue records for issue of pattedar passbook and title deeds in respect of the property in Survey Nos.707, 743 and 745 of Siddanthi Shamshabad Village and Mandal, Ranga Reddy District. The Joint Collector in revision against the order passed under Section 3 of the A.P. Rights in Land and Pattedar Passbooks Act, 1971 issued a direction to both parties to await the judgment of the Civil Court in a pending suit i.e O.S. No. 768 of 2009 before I Additional

Senior Civil Judge and set aside the proceedings issued by the Revenue Divisional Officer in file No.C/196/2009, dated 05.05.2010. Therefore, as on that date, no person i.e. party to the suit are entitled to claim right to claim mutation of name in the revenue records and pattedar passbooks etc.

As the matter stood thus, the third parties trying to interfere with the possession of the petitioner, he made representation to the revenue authorities and registration authorities not to entertain registration and obtained status quo, but no action has been taken. If the land is sold by laying lay out and constructions are allowed to be raised, the petitioner will be put to serious loss and prayed to grant reliefs stated above.

At the stage of admission, learned counsel for the petitioner reiterated the contentions raised in the petition while contending that if any document is registered conveying the property, which is in dispute, the petitioner will be put to serious loss.

Admittedly, there is a civil dispute between the private individuals in the suit and in revision before the Joint Collector under Section 9 of the A.P. Rights in Land and Pattedar Passbooks Act issued a direction to both parties to await for judgment in civil suit. In the revision before the Joint Collector, no allegation was made against the respondents i.e. Government officials, who are arrayed as respondents 1 to 6 that construction being carried on by any of the authorities. But alleged in para 5, third party is trying to interfere with the possession raising constructions. When private individuals interfering with the possession and raising construction, the remedy available to the petitioner is to approach the competent civil Court and obtain appropriate interim injunction during pendency of suit and such power cannot be exercised by this Court under Article 226 of the Constitution of India as rights of private individuals are in question.

Similarly, the petitioner also claimed a direction against respondents 4 and 5 not to register any document conveying or transferring property in

any mode, which is subject matter of O.S.No.768 of 2009, the registrar can refuse registration only in certain circumstances enumerated under Section 22-A or any bar under law recording reasons required under Section 71 of the Indian Registration Act and an appeal lies against the same under Section 72 of the Indian Registration Act. But the case on hand would not fall either under Section 22-A of the Indian Registration Act to refuse registration of document if presented transferring the property, which is subject matter of O.S.No.768 of 2009 and at best the petitioner may claim appropriate relief in the suit restraining the defendant therein from alienating the property during pendency of the suit. In the present writ petition, the petitioner is not entitled to claim any relief and consequently, the writ petition is liable to be dismissed.

In the result, the writ petition is dismissed giving liberty to approach civil Court for appropriate relief. No costs.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

18.04.2018
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A large, faint green circular seal of the High Court of Andhra Pradesh, Hyderabad Bench, is centered in the background. It features the text 'HIGH COURT OF ANDHRA PRADESH' and 'HYDERABAD' around the perimeter, with 'FOR THE STATE OF ANDHRA PRADESH' at the bottom. In the center is a red emblem of the Government of India. Below the emblem, the motto 'सत्यमेव जयते' is written in Devanagari script. Overlaid on the right side of the seal is the signature of the judge.

M.SATYANARAYANA MURTHY,J