

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.8369 of 2011

ORDER:

This criminal petition is filed seeking to quash the proceedings in Crime No.9 of 2005 of CID Police Station, Hyderabad.

Heard the learned counsel for the petitioners and the learned Public Prosecutor for the 3rd respondent. None appears for the respondents 1 and 2.

As per the complaint, the complainant joined as a member in Sri Venkateswara Co-operative House Building Society for Andhra Pradesh Legislators Limited and he was allotted a plot. His allegation is that on 27.03.1985, he along with other members paid entire total amount of consideration. The office bearers informed him that the date of registration would be informed to him. During the month of May, 2001, with an intention to make construction over the plot allotted to him, entrusted the job of obtaining the registered sale deed from the Society and getting required permissions from the concerned authorities, to his son. Later his son informed him that the Society had executed a registered sale deed in favour of Smt.K.Obulamma, behind his back. He further alleged that he approached the Registrar of Co-operative Society, disputing the registration in favour of Smt. K.Obulamma, who is the first petitioner herein, requesting the Registrar to register the said plot in his favour. According to

the complainant, after conducting necessary enquiry Registrar passed orders in Proceedings RC.No.6603/02/H1, dated 27.09.2003, directing the Society to restore the said plot in his favour and accordingly he did so on 07.10.2003, vide registered document No.3771 of 2003. It is further alleged in the complaint that Smt.K.Obulamma, knowing fully well that the said plot was allotted and restored in favour of the complainant, by misleading the concerned authorities, wrongfully obtained permissions for construction, on 17.10.2003 with a view to grab the said plot and the petitioners trespassed into the said plot on 22.01.2004.

The learned counsel for the petitioners submits that the order of restoration dated 27.09.2003 was suspended by the Commissioner and Registrar of Cooperative Societies by virtue of the order dated 08.01.2004. On the basis of the said order, the learned counsel submits that there cannot be any trespass on 22.01.2004 as alleged by the complainant. Moreover, the sale deed was executed in the year 1995 and the complaint was filed only in the year 2004, after a long lapse of time. The learned counsel submits that as per the oral agreement of the complainant and the first petitioner, the Society registered the sale deed in favour of the first petitioner at the instance of the complainant. Be that as it may, the long delay in filing the complaint would belie the contentions of the complaint. The learned counsel also draws the attention of this Court to the G.O., which was issued on 16.08.2005, mentioning that the revision petition filed by the first

petitioner herein was allowed and the proceedings of the Registrar Cooperative Society dated 27.09.2003 are set aside on the following grounds:

- “a) The NOC granted for registration of plot in favour of Smt. K.Obulamma is valid, as the resolution passed is not in dispute.
- b) The registration itself leads to an inference and genuineness of the documents and proves that the transactions between the parties herein is legal and valid as the registration was not challenged.
- c) The dispute raised by Sri V.Adam after 18 years later to registration of the documents, lacks merit and barred by limitation.
- d) Adequate opportunity was not given to the affected party, though the Petitioner requested the Society through Lrs.Dt.19.4.2003 and 7-5-2003 to furnish certain document mentioned therein to offer her explanation.
- e) The action of the RCS for issuing proceedings restoring the plot to Sri V.Adam, assuming that the signature are not tallying is not valid. As there is no allegation or any findings against the Revision Petitioner of committing of any illegality as stated by some one, in the absence of expert opinion the contention of RCS cannot be accepted.”

Hence, the above documents, which are unimpeachable would show that the contentions in complaint are false. Hence, this Court opines that continuation of further proceedings against the petitioners would be an abuse of process of law and therefore, this petition is liable to be allowed.

Accordingly, further proceedings in Crime No.9 of 2005 of CID Police Station, Hyderabad are quashed.

In the result, with the above, this petition is allowed.

As a sequel, miscellaneous applications, if any, pending in this petition shall stand closed.

JSUTICE T. RAJANI

Date: 28.08.2018
LSK

