

THE HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.41993 OF 2018

ORDER

The prayer of the petitioner in this case reads as under:

'For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble court may be pleased to issue a Writ, Order, or Direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the 4th respondent in registering the sale deed executed by petitioner late father, as being illegal arbitrary and violative of Article 14, 21 and 300-A of constitution of India and consequently issue direction to the 2nd, 3rd and 4th respondents to quash the fraudulent sale deeds executed by the petitioner late father dated 30-05-2018 and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.'

It is an admitted fact that though the petitioner filed O.S.No.717 of 2017 before the learned II Additional Junior Civil Judge, Warangal, against his father and others for a permanent injunction, there was no interim injunction therein restraining the petitioner's father from alienating the suit property. The petitioner's father executed a sale deed on 30.05.2018 in favour of the 8th respondent. It appears that the parties to the suit came to a compromise and set out the terms and conditions thereof in a written Memorandum of terms of compromise in August, 2018.

Be that as it may.

In effect, the petitioner is seeking cancellation of a registered document. Various allegations are made in the context of the said registered document to categorise the same as a fraudulent one. It would not be possible for this Court to undertake resolution of such disputed questions of fact in a writ petition filed under Article 226 of the Constitution. Section 31 of the Specific Relief Act, 1963, provides an

efficacious remedy to a person who seeks a declaration that a written instrument is void and is liable to be cancelled. Without availing this efficacious alternative remedy provided to him under the s-tatute, the petitioner chose to file this writ petition.

The writ petition is accordingly dismissed on this short ground. This order shall however not preclude the petitioner from invoking the statutory remedy available to him in accordance with the due procedure. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

29th JANUARY, 2019

Sv

SANJAY KUMAR, J