

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 47536 of 2018

O R D E R:

Petitioner asserts that he is the adopted son of late R. Brahmaiah, who passed away on 07.04.1988 leaving behind his wife Rangu Ananthamma, who also passed away on 26.12.1999; that he being the adopted son of Brahmaiah alone is entitled to the succession of house property bearing No.7-4-55 of Nelco Line, Bazar Area, Bellampally, Mancherial District; that respondent No.5, who is none other than his own brother, appeared to have influenced the municipal authorities and got his name entered in the revenue records; that aggrieved by the same, the petitioner by way of filing applications, dated 31.05.2017 and 24.03.2018, approached respondent No.4 - Municipal Commissioner, Bellampally, who in turn, gave intimation vide Ref.No.A1/606/2018-19, dated 13.06.2018, to the petitioner as well as respondent No.5 by advising them to approach the Court to resolve the issue and that he filed a representation, dated 26.06.2018, to respondent No.3 – Regional Director, Municipal Administration, Hanamkonda, Warangal District, seeking to direct respondent No.4 to rectify the entries in the municipal records with respect to the subject property after conducting thorough enquiry and thereupon, respondent No.3 *vide* letter, dated 16.07.2018 forwarded such representation to respondent No.4 by directing him to take necessary action and to submit action taken report. His grievance is that in spite of such

directions, respondent No.4 has not taken any action till date. Hence, he filed this writ petition.

Learned counsel for the petitioner submits that in the cause title of this writ petition, by mistake, the name of the father of the petitioner was shown as Rangaiah instead of Brahmaiah; that in the school records and other documents, the name of the petitioner as son of late Brahmaiah was recorded and he being the adopted son of Brahmaiah, entering the name of respondent No.5 with respect to the subject property in the municipal records is illegal and therefore, he prays for issuance of a direction to the authorities to re-consider the matter.

Learned Government Pleader for respondent Nos.1 to 3 and learned Standing Counsel for respondent No.4 submit that as there are rival claims with respect to the subject property, respondent No.4 *vide* intimation, dated 13.06.2018, rightly advised the petitioner and respondent No.5 to approach the Civil Court for resolving the issue.

A perusal of the intimation, dated 13.06.2018, discloses that the petitioner as well as respondent No.5 appeared to have arrived at an amicable settlement and more importantly, the name of respondent No.5 came to be entered in the records, when the petitioner was a minor. In the circumstances, it is not possible for the authorities to decide the succession rights with respect to the subject property, and thereby, respondent No.4 rightly advised the petitioner and respondent No.5 to approach the civil Court, as such, the aforesaid intimation cannot be found fault with.

It may be noted that whether the authority constituted under the municipal laws is having either expertise or power to determine the rights of the individuals with respect to the property acquired through succession or otherwise and whether the petitioner was adopted by late Brahmaiah and whether respondent No.5 also has any right over the subject property of late Brahmaiah are the matters to be decided by the civil Court in appropriate civil proceedings. It may be noted further that in the intimation, dated 13.06.2018, respondent No.4 observed that the petitioner was the adopted son and the settlement alleged to have been given by respondent No.5 that his name was got mutated without notice when the petitioner was minor and he had also agreed to give the property to the petitioner. These observations are irrelevant and the same have to be ignored for all practical purposes. It may also be noted that the municipal authorities, having regard to the limited powers vested in them, at the very first instance, ought to have informed the respective parties to approach the civil Court for asserting their rights and only thereafter, the applications of this nature would be considered.

In those circumstances, the writ petition is closed. However, it is open to the petitioner to work out his remedies in the civil Court.

Miscellaneous petitions, if any pending, in this writ petition shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:04.01.2019
kdl

