

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.2340 OF 2020

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned standing counsel appearing for second respondent Corporation.

2. The prayer sought in the writ petition is as under:

'For the reasons stated in the accompanying affidavit, the petitioner herein prayed that this Hon'ble Court may be pleased to issue writ, order or direction, especially one in the Nature of Writ of Mandamus, declaring the proceedings No.1064044755 dt. 20-01-2020 of the 3rd respondent is illegal, arbitrary, violative of principles of natural justice, contrary to the sections 207 and 208 of the Greater Hyderabad Municipal Corporation Act, 1955, and one without jurisdiction and consequently set aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.'

3. The basic grievance of the petitioner is that the third respondent, in violation of principles of natural justice and contrary to the procedure contemplated under Sections 207 and 208 of the Greater Hyderabad Municipal Corporation Act, 1955 (for short, the Act of 1955'), and without jurisdiction, issued the proceedings No.1064044755, dated 20.01.2020, transferring the title in respect of House No.13-10-86/1/A in favour of the fourth respondent.

4. Learned counsel for the petitioner also submits that the petitioner as well as the fourth respondent are the natural brothers and the legal heirs of the deceased, Krishnaveni Chakravarthula. The third respondent without considering the objections dated 02.01.2020 and 20.01.2020 raised by the petitioner issued the impugned proceedings. Learned

counsel emphasised that though the impugned proceedings are dated 20.01.2020, the same is dispatched on 28.01.2020 by giving an antedate in the impugned proceedings. Learned counsel also submits that the third respondent passed the impugned orders in violation of the procedure contemplated under Section 208(2) of the Act of 1955.

5. Section 208(2) of the Act of 1955 contemplates that, the Commissioner, on receipt of any information/notice, if he thinks it necessary requiring the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Registration Act, 1908 (Central) or any evidence acceptable to the Commissioner on the point of the title of the deceased person can pass orders transferring the title to the legal heirs.

6. In the case on hand, the third respondent transferred the property in favour of the fourth respondent in violation of the above said procedure. What all that is produced before the third respondent was an unregistered will deed executed by Krishnaveni Chakravarthula, i.e. the mother of the petitioner and the fourth respondent. The said document has been disputed by the petitioner.

7. Further, the personal notice taken out on the fourth respondent pursuant to the order passed by this Court on 05.02.2020 has been returned unserved with an endorsement 'unclaimed'. The said endorsement and the returned cover amount to deemed service of notice on the fourth respondent.

8. Having heard the learned counsel and from the perusal of the averments made in the affidavit filed in support of the writ petition, this Court is of the opinion that it is a fit case where the impugned proceedings have to be set aside since the impugned orders are passed

without following the mandate as contemplated under Section 208(2) of the Act o 1955.

9. Accordingly, the writ petition is allowed and the proceedings No.1064044755, dated 20.01.2020, issued by the third respondent, are set aside. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE P.KESHAHA RAO

Date: 27.02.2020
PGS

