

HONOURABLE SMT. JUSTICE V. SUJATHA

WRIT PETITION No.5126 OF 2023

ORDER:

The present writ petition came to be filed under Article 226 of the Constitution of India seeking the following relief:

“...to issue an appropriate Writ, Order or direction more particularly in the nature of Writ of MANDAMUS declaring the inaction of the respondents in transfer of ownership of Housing Plot No.4, Block80 in MIG, Bhavanipuram Housing Board Colony, Vijayawada by issuing a notification inviting objections if any for the same as arbitrary, illegal and violative of fundamental rights guaranteed under Articles 14, 21 and 300A of the Constitution of India and consequently direct the respondents to issue publication inviting objections for transfer of ownership of subject property forthwith and to pass...”

2. The case of the petitioner is that originally one Mr. P. Srinivasa Rao was allotted a house in plot No.4, block No.80 MIG, Bhavanipuram Housing Board Colony, Vijayawada, on 25.03.1994. Thereafter, he has sold the said plot in favour of Mr.V.S.S.R.K.Prasad, S/o Poorna Pragna Chary vide sale agreement dated 25.10.1997, subsequent to which the property was delivered to the said Mr. V.S.S.R.K. Prasad who has become the absolute owner of the said property, has further sold the same plot through a registered agreement of sale dated 16.02.2010 to the petitioner on payment of sale consideration and in pursuance of which the petitioner has been in possession and enjoyment of the same with absolute rights.

3. While the matter being so, the petitioner, in order to get the said property mutated in his name, submitted a demand draft for a sum of Rs.25,000/- dated 02.07.2022 bearing No.289306 in favour of the respondents for issuing a publication inviting objections if any for transfer of ownership in his favour.

4. After receiving the said amount of Rs.25,000 from the petitioner for publishing, the 3rd respondent herein issued the present impugned proceedings dated 26.09.2022 informing the petitioner that the original allottee i.e. Mr. P. Srinivasa Rao has issued a legal notice stating that the vendee i.e. Mr.V.S.S.R.K.Prasad, S/o Poorna Pragna Chary, instead of paying the balance amount to him has executed forged sale agreement and as the petitioner has purchased from the said Prasad, the petitioner was requested to attend the office along with Mr.V.S.S.R.K.Prasad with original proofs. The petitioner has attended the respondents' office and sought information from the authorities about the notices issued by his vendor as well as the original allottee, but, surprisingly, the same was not furnished to the petitioner. The main grievance of the petitioner is that, till date the respondents have not issued any notification inviting objections for the transfer of ownership in favour of the petitioner, aggrieved by which, the petitioner has filed the present writ petition.

5. The 3rd respondent has filed a detailed counter admitting the facts as stated by the petitioner, but however, took objections.

6. Heard learned counsel for the petitioner and learned counsel for the respondents.

7. On a perusal of the affidavit and as well as the impugned letter, it shows that on the request made by the respondents, the petitioner has paid Rs.25,000/- for issuing paper publication inviting objections. But, in spite of that asking the petitioner to bring the original allottee and as well as the subsequent purchasers with the original document, only on the ground that they have received a legal notice from the original allottee, informing that his vendee has failed to pay the entire amount to him and has requested to stop all further transactions, cannot be accepted, in view of the fact that if at all the notification was issued calling for objections as requested by the petitioner, the entire issue can be settled.

8. The only ground raised by the 3rd respondent in his counter is that as they received a legal notice from the original allottee, informing that Mr. Prasad has paid only Rs.36,500/- as advance and did not paid the balance amount of Rs.3,00,000/- and created a forged sale deed and also requested to stop all further transactions for registration of the said flat. From the above, it appears that once the property is registered in favour of the vendee, the seller cannot raise an objection that he has not received the money from the vendee and the respondents cannot entertain such legal notices.

9. In view of the same, the impugned letter dated 26.09.2022 is set aside and the respondents are directed to issue the paper notification as expeditiously as possible preferably within a period of two (2) weeks from the date of receipt of a copy of this order calling for objections and thereafter should consider the request of the petitioner for mutating of the plot No.4, Block-80 in MIG, Bhavanipuram Housing Board Colony, Vijayawada, in his favour.

10. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

Consequently, miscellaneous applications, if any, shall stand closed.

JUSTICE V. SUJATHA

Date: 24.04.2023.

GSS/ASH

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