

THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

WRIT PETITION No.7452 OF 2023

ORDER:-

This Writ Petition for Mandamus is filed to declare the action of respondent No.2 is not mutating the name of the petitioner in respect of the site in an extent of 193 Sq Yards covered by R.S.No.449 in Jangareddygudem, Eluru District, in the name of the petitioner, as illegal and consequently sought direction to the respondents to consider the application of the petitioner and mutate his name in respect of the said property.

2. Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue appearing for respondent No.1, 3 to 5, learned Assistant Government Pleader for Municipal Administration & Urban Development appearing for respondent No.2 and Sri M. Manohar Reddy, learned Standing Counsel for Municipality appearing for respondent No.6.

3. As per the case pleaded by the petitioner, a house site was allotted to his mother by name Maddipati Veeramma under a house site patta in the year 1998 and since then she has been in possession and enjoyment of the same and she has constructed a one room house and living in it. Thereafter, she has executed a document styled as immovable property possessory deed, dated

23.09.2020, in favour of the petitioner and delivered possession of the property to him and since then he has been in possession and enjoyment of the said property. Therefore, it is stated that he has applied for mutation of his name in respect of the said property and the respondents are not considering the said application and not effecting mutation in the municipal records. It is stated that the petitioner is also paying the property tax in respect of the said property. Therefore, the instant Writ Petition has been filed seeking the aforesaid reliefs.

4. Learned Assistant Government Pleader for Revenue, learned Assistant Government Pleader for Municipal Administration & Urban Development as well as Sri M. Manohar Reddy, learned Standing Counsel for respondent No.6 would submit that the house site was allotted to Maddipati Veeramma and as per the terms and conditions adumbrated in the said house site patta, a copy of which is produced by the petitioner himself at page Nos.12 and 13 of the material papers of the Writ Petition, clearly indicates at condition No.9 that the said property is not alienable and the assignee has to only enjoy the same. Therefore, they would submit that as the assignee is still alive that she cannot execute any document even giving possession of the said property to the petitioner and as such the said agreement, dated 23.09.2020 is not valid under law and it will not confer any right in favour of the

petitioner in respect of the said property. Further, learned Standing Counsel for respondent No.6 would submit that request for mutation would be considered only when there is a valid title deed executed in favour of the applicant or when there is a civil Court Decree and on the basis of the mere possessory agreement, the request for mutation will not be entertained as per the provisions of the Municipalities Act. Learned Standing Counsel also would submit that even the property tax receipt, which is produced by the petitioner, is not standing in his name and it is standing in the name of Chinnam Krishna Rao and it is not explained as to why the property tax receipt is standing in the name of the said Chinnam Krishna Rao. Therefore, he would pray for dismissal of the Writ Petition.

5. As rightly contended by learned Assistant Government Pleader for Revenue, the assignee is still alive. As per the terms and conditions of the house site patta that was issued, it is clear from clause (9) of the said terms that there is a prohibition relating to alienation of the property by the assignee. Therefore, even if any such document, dated 23.09.2020, was executed by the assignee in favour of the petitioner delivering possession of the said property to him, it is not valid under law and it will not confer any right or interest in favour of the petitioner in respect of the said property. The assignee has to only enjoy the said property

during her lifetime. As per law, the said property is only heritable after the demise of the assignee and her legal heirs will be entitled only to succeed to the same and to enjoy it. As the assignee is still alive, the petitioner, even if he is the son of the assignee, will not derive any right or interest in respect of the said property.

6. Apart from it, the property tax receipt produced by the petitioner also stands in the name of a stranger by name Chinnnam Krishna Rao. Learned counsel for the petitioner could not explain as to why the property tax stands in the name of a stranger by name Chinnnam Krishna Rao. Therefore, the petitioner could not establish any right in his favour to seek mutation of his name in respect of the said property. Further, when there is no valid title deed in the name of the petitioner in respect of the said property or Decree of the civil Court, the petitioner cannot even seek mutation of his name in respect of the said property in the municipal records. So, viewed from any angle, the petitioner could not make out any case warranting interference of this Court to declare the action of respondents in not considering the application of the petitioner for mutation as illegal and to give direction to the respondents to effect mutation of his name in respect of the said property in the municipal record. Therefore, there is no merit in the Writ Petition and it is liable to be dismissed at the admission stage.

7. Resultantly, the Writ Petition is dismissed at the admission stage. No costs.

Miscellaneous Petitions, if any pending, in this Writ Petition, shall stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date: 24.03.2023
AKN/DSB

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AKN