
(2014) 06 KAR CK 0190

In the Karnataka High Court

Case No : Writ Petition No. 86127 of 2012 (LB-RES)

Sureshchandra

APPELLANT

Vs

The Commissioner

RESPONDENT

Date of Decision : 30-06-2014

Acts Referred:

Citation : (2014) 6 KarLJ 318

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : Sriyuths G.G. Chagashetti, I.R. Biradar and S.S. Desai, Advocate for the Appellant; Sriyuths P.S. Malipatil and Harshavardhan R. Malipatil, Advocate for the Respondent

Judgement

B.S. Patil, J.—Challenge in this writ petition is to the order dated 31-7-2012 passed by the Commissioner for Gulbarga City Corporation produced at Annexure-J. As per impugned order, entries in the Municipal katha in respect of property bearing Sy. No. 1-1294/1 and to the surrounding property has been ordered to be entered in the name of the 2nd respondent-Mohanchandra. Petitioner is the son of the 2nd respondent.

2. It is the case of petitioner that property belongs to him as the same has been bequeathed in his favour by a registered Will executed by his grandfather and therefore, it was rightly entered in his name in the Municipal records, but without notice to the petitioner and without providing him any opportunity of being heard, 1st respondent has ordered deletion of his name from the katha so as to enter the name of the 2nd respondent.

3. Learned Counsel for the 2nd respondent urges that the order passed by the 1st respondent is based on the compromise arrived at between the parties and the memorandum of partition entered into between them and therefore, petitioner is not entitled to make any grievance regarding the correctness of the order passed. He, therefore, points out that in the petition filed in Criminal Misc. No. 130 of 2008, petitioner herein has admitted the fact that the property had

fallen to the share of the 2nd respondent as per the memorandum of partition.

4. Having heard the learned Counsel for both parties and on consideration of materials on record, I find that the impugned order is passed without notice to the petitioner and without affording any opportunity to him to have his say in the matter. The 1st respondent does not even discuss the effect of the order passed by the Court and also the effect of the memorandum of partition. Except making reference to the civil suit by mentioning the case number in the references column no details are forthcoming with regard to the nature of the Court proceedings and the nature of order passed. Therefore, without going into the merits of the matter, this writ petition deserves to be allowed with a direction to the 1st respondent to hear both parties and pass orders in accordance with law taking note of all the relevant documents and facts including the Court proceedings. In order to avoid any delay in the disposal of the matter, both parties have to be directed to be present before the 1st respondent on a specified date and the 1st respondent shall dispose of the case expeditiously. Hence, this writ petition is allowed. Impugned order Annexure-J is set aside. Petitioner and the 2nd respondent are directed to appear before the 1st respondent on 11-7-2014 at 3.00 p.m. The 1st respondent shall pass appropriate orders in accordance with law within a period of one month thereafter