

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17582 of 2010

ORDER:

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Heard learned counsel for the petitioner and Government Pleader for Revenue. With the consent of both the parties, the main writ petition is disposed of at the admission stage itself.

The present writ petition is filed seeking issuance of a writ of mandamus declaring the action of the respondents in not preventing encroachment and structures being undertaken for establishment of statue of political leader on drainage sluice pipes on public drain and road margin leading from school building to Pandi Kodu drainage canal of Devaragopavaram Village of Nidamaru Mandal, inspite of representation of the petitioner dated 15.07.2010 as illegal and arbitrary.

A counter came to be filed by the second respondent – Panchayat Secretary stating that the statue has already been erected by raising pillars. It is further stated that in view of the resolution of the gram panchayat giving permission for erection of statute, the petitioner has to approach the Government under Section 246 for cancellation of the said resolution but definitely not by way of the present writ petition.

The Apex Court in **Commissioner of Income Tax v. Chhabil Dass Agarwal** held that *“the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”*

In view of the judgment referred to above and having regard to the facts and circumstances of the case, the writ petition is dismissed, leaving it open to the petitioner to avail the remedies available under law. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

07.10.2015

vhb