

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

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W.A.No.781 OF 2015

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PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard learned counsel Mr.Venkateshwar Varanasi for the appellant and the learned Government Pleader for Revenue.

The appellant unsuccessfully challenged endorsement vide Ref.No.D/252/2015 dated 13.06.2015 in W.P.No.21962 of 2015. Hence, the appeal.

The learned Single Judge while dismissing W.P.No.21962 of 2015 has recorded the following order:

“Further, a perusal of the material available on record goes to show that the petitioner had earlier approached this Court by filing W.P.No.14664 of 2015, which was disposed of on 21-05-2015. In the said writ petition, the petitioner had questioned the notice issued by the 3rd respondent, dated 06-05-2015, to which the petitioner has already submitted explanation. In those circumstances, this court directed the 3rd respondent to consider the explanation and pass appropriate orders. The contention now raised by the learned counsel for the petitioner that the petitioner was not issued any notice nor the impugned order does not contain any provision of law, under which the action was taken, in my view, cannot be permitted to urge on the principle of constructive *res judicata*, as the said contention ought to have been raised in the earlier writ petition referred to above. Though the learned counsel for the petitioner states that the petitioner has raised his contention in the earlier writ petition also, the order of this Court in the aforesaid writ petition does not refer to any such contention and even if such a contention was raised by the petitioner that is deemed to have been rejected and the principle of constructive *res judicata* under Section 11 CPC would still apply. Secondly, the impugned order is purely based on factual findings, which cannot be adjudicated in exercise of power under Article 226 of the Constitution of India. Hence, the writ petition is declined to be entertained.

Accordingly, the writ petition is dismissed.

However, the petitioner is at liberty to avail appropriate remedy in accordance with law. There shall be no order to costs.”

The learned counsel for the appellant contends that against the impugned endorsement, the appellant does not have efficacious or statutory remedy to challenge the endorsement and dismissal of writ petition by reference to the earlier order is erroneous.

On the other hand, learned Government Pleader for Revenue states that the endorsement dated 13.06.2015 is issued by the Tahasildar, Rajampet Mandal, Kadapa District, and the appellant can certainly file appeal before the Revenue Divisional Officer. The statement of learned Government Pleader is placed on record.

We see no reason to interfere with the order challenged in the writ appeal. The writ appeal is dismissed by leaving it open to the appellant to work out the remedy of appeal before the Revenue Divisional Officer, Rajampet, Kadapa District, if so advised.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

ACJ

DILIP B. BHOSALE,

S.V.BHATT,

J

Date: 19.08.2015

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