

**HON'BLE SRI JUSTICE A. SHANKAR
NARAYANA**

WRIT PETITION No.10705 OF 2005

ORDER:

The instant writ petition is filed impugning the proceedings in Rc. No.237 of 2004, dated 19-07-2004 on the ground that no opportunity was afforded to the petitioner while conducting inquiry, and in fact, the proceedings were passed without conducting any inquiry at all and sought to set it aside.

2. The petitioner's case is that he owns Acs.2-57 cents out of a total extent of Acs.4-07 cents in Survey No.355-1, situated at Kalyandurg Revenue Village and Mandal, Anantapur District. He filed a suit in O.S. No.17 of 1999 on the file of Principal Senior Civil Judge, Anantapur for partition and the same was decreed on 21-01-2000. During the pendency of the proceedings, respondent herein said to have filed a claim petition against his possession and the said matter was pending before the Civil Court, and that he (petitioner) obtained police protection therein.

i) It is according to him, that without giving any notice and without conducting any inquiry, respondent No.2 – Mandal Revenue Officer, Kalyandurg Mandal passed orders, and in fact, respondent No.2 had already passed orders in favour of the petitioner in Rc.No. (A)171/2004, dated 30-05-2004 directing the Station House Officer, Kalyandurg Police Station to give protection to him. On 19-07-2004 in Rc.No.237/2004, respondent No.2 passed orders directing both of them not to enter upon the site, not to alienate the property and not to undertake constructions.

ii) In paragraph No.5 of the affidavit filed in support of the writ petition, the petitioner mentions categorically that challenging the order passed by respondent No.2, he preferred an appeal before respondent No.1 – Revenue Divisional Officer, Dharmavaram Division to cancel the order of respondent No.2 in Rc. No.237 of 2004, dated 19-07-2004, but the same was pending even, on the date of filing the instant writ petition. That has been the reason why the petitioner appears to have approached this Court by filing the instant writ petition to set aside the very same order, dated 19-07-2004 passed by respondent No.2 in Rc. No.237 of 2004.

3. Respondent No.3 opposed the request by filing counter raising various grounds. However, it is specifically pleaded that since the petitioner availed the remedy of preferring appeal before respondent No.1 against the order passed by respondent No.2 which is impugned herein, the instant writ petition is not maintainable as the petitioner cannot maintain two parallel remedies against one and the same order. That has been the main contention apart from other contentions raised stating that both the parties attended the inquiry and the orders were passed by respondent No.2 having heard both sides.

4. Heard Sri K. Srinivas, learned counsel for the petitioner and Sri O. Manohar Reddy, learned counsel for respondent No.3.

5. Perused the averments of affidavit filed in support of the writ petition, counter and the record.

6. It is clear from the averments made in paragraph No.5 of

the affidavit filed in support of the writ petition that the petitioner has already availed the remedy by preferring appeal before respondent No.1 challenging the orders impugned herein. In such an event, it is not open for him to file the instant writ petition and run two parallel proceedings against one and the same order. In that view of the matter, the instant writ petition is not maintainable.

7. Accordingly, the instant Writ Petition is dismissed. No order as to costs.

8. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, stand disposed of.

A. SHANKAR NARAYANA, J

November 06, 2015.

Mgr