

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 10633 of 2012

ORDER:

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

The present writ petition came to be filed seeking issuance of writ of mandamus, declaring the inaction of the respondents in fixing the boundaries by surveying the land admeasuring Ac.7.98 cents situated in D.No.422/B of Jettipalem Village, Rentachintala Mandal, Guntur District, as illegal, arbitrary and contrary to law.

The averments in the affidavit filed in support of the writ petition would show that the petitioner claims to be the owner and possessor of land admeasuring Ac.3.98 cents in D.No.422/B situated at Jettipalem Village. Originally the grand father of the petitioner by name Derangula Raghupathi was the absolute owner of the property admeasuring Ac.7.96 cents in D.No.422/B situated at Jettipalem Village and he sold the land to an extent of Ac.3.98 cents to K.Nasaraiah on 14.02.1962. As the neighbouring land owners are interfering with the peaceful possession and enjoyment of the petitioner, he made a representation in the year 2011 to the first respondent asking him to conduct survey but the same was not considered till date. The petitioner once again made an application to the first respondent on 10.02.2012 enclosing the challan, but no action was taken. Hence the writ petition.

A counter came to be filed by the respondents stating that pursuant to an application made by the petitioner and basing on the report of Deputy Inspector of Survey, Narasaraopeta, the Assistant Director of District Survey and Land Records, Guntur, issued an endorsement to the petitioner vide Rc.No.A5/Appeal/Narasaraopet/

11/2012, dated 18.04.2012 with a request to submit pattadar pass book to prove his right over the property in Sy.No.422/B, but the petitioner has not produced either pattadar passbook or any records to prove his right and title as on date. As per the said endorsement, if at all the petitioner is aggrieved he has an appeal under the Andhra Pradesh Surveys and Boundaries Act, 1923.

The Apex Court in **Commissioner of Income Tax v.Chhabil Dass Agarwal**^[1] 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.*”

Having regard to the circumstances of the case and as the statute provides an appeal under Section 11 of the Andhra Pradesh Survey and Boundaries Act, 1923, nothing survives in the writ petition and the same is accordingly dismissed. However, it is always open to the petitioner to avail the remedies available under law. There shall be no order as to costs.

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

JUSTICE C. PRAVEEN KUMAR

02.09.2015
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^[1] (2014) 1 SCC 603