

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.13894 of 2015

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ORDER:

Heard.

The relief sought for in the writ petition is in the nature of seeking a Writ of Prohibition against the 2nd respondent, who is seized of Appeal bearing No.A/1728/2013 filed by the 4th respondent. The petitioner states that he has already filed a suit in O.S.No.78 of 2013 before the Junior Civil Judge, Kodangal for declaration of ownership and for perpetual injunction and the 4th respondent herein is the 3rd defendant therein. He, therefore, claims that in view of pendency of the said suit, the proceedings under the ROR Act cannot be proceeded with and states that the appeal filed before the 2nd respondent shall not be heard and disposed of pending the above suit. The petitioner also states that he has filed an application before the 2nd respondent on 23-09-2014 for the aforesaid purpose. The present writ petition, therefore, is filed to declare the action of the 2nd respondent in proceeding with the appeal as illegal.

After hearing the learned counsel for the petitioner and the learned Government Pleader, I am of the view that a Writ in the nature of Prohibition as sought for by the petitioner cannot be granted, as basing on the facts of the case it cannot be said that the appeal filed before the 2nd respondent suffers from inherent lack of jurisdiction. On the contrary, the appeal was filed under Section 5(5) of the A.P.Rights in Land and Pattadar Pass Book Act, 1971 and it is pending before the 2nd respondent. The petitioner, however, is at liberty to raise all his contentions in the said appeal including the fact of filing the aforesaid civil suit and it is for the appellate authority to consider the same and then take appropriate decision in the appeal. The relief sought for by the petitioner, therefore, cannot be granted,

particularly as the 2nd respondent appears to have already fixed the date of hearing of appeal on 30-08-2014 as is evident from the notice of hearing, dated 18-08-2014 (Ex.P-2) filed along with this writ petition.

The writ petition is, therefore, disposed of directing the 2nd respondent to hear and dispose of the appeal on merits expeditiously preferably within two months from the date of receipt of a copy of this order, after hearing both sides. No order as to costs.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 01-06-2015

Prv

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