

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.24577 of 2012

Date: 28-10-2015

Between:

Neralla Venka Goud

.... Petitioner

AND

The District Collector, Nizamabad District

and 2 others

.... Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.24577 of 2012

ORDER:

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Heard the counsel for the petitioner and the 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 action of the 2nd respondent in issuing memo No.B/2633/2012, dated 21-06-2012 as illegal and arbitrary and consequently to set aside the same.

The averments in the writ affidavit show that the petitioner claims to be absolute owner of the land admeasuring Ac.23.5 guntas in Survey No.95/2 situated at Nasrullabad shivar of Bikur Mandal and he is the grandson of the 3rd

respondent. It is stated that a partition took place on 11-12-2001 before the village elders and as per the partition deed, the land admeasuring Ac.2.32 guntas was distributed amongst the petitioner and other four sons of the 3rd respondent. The 3rd respondent was given land for extent of 29 guntas. It is further stated that as the father of the petitioner died in the year 1993 and as per the partition deed, his name and the name of other four sons were recorded in the occupants column of pahani from the year 2003-2004, the petitioner was in peaceful possession of the subject land since then. The Sarpanch, Secretary and the staff of Nasarullabad came to the land in which he was constructing a new building, and asked him to stop the said construction. Then the petitioner filed W.P.No.7278 of 2012 questioning the said action. While the matter stood thus, the 2nd respondent issued a Memo No.b/2633/2012, dated 21-06-2012 directing the Village Revenue Officer to enter the name of the 3rd respondent in the occupants column by deleting the name of the petitioner and four sons of the 3rd respondent from the records and also directed to take action for stoppage of construction work in the land. Questioning the said memo, the present writ petition came to be filed.

It is to be noted that while issuing notice, this Court has not passed any interim orders. It is further to be noted that the petitioner has an alternate remedy available under the statute in respect of his grievance raised herein. 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 shall not be entertained ignoring the statutory dispensation.”

In view of the above judgment and having regard to the facts and circumstances of the case, the writ petition is disposed of directing the petitioner to avail alternative remedy available to him under the statute, in which event the competent authority shall consider the same and pass appropriate orders in accordance with law. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 28-09-2015

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