

HON'BLE SRI JUSTICE R.KANTHA RAO

W.P.No.16618 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Assistant Solicitor General appearing for respondents 1 to 3.

Challenging the proceedings dated 8.4.2015 issued by the 2nd respondent deducting the salary of the petitioner in order to pay maintenance to the 4th respondent, this writ petition has been filed.

The petitioner is a soldier in Army and now he is working in Bikaner, State of Rajasthan. The 4th respondent is the wife of the petitioner. The petitioner as well as the 4th respondent are residents of Guntur District in the State of Andhra Pradesh. After marriage, they lived together for some time. Thereafter, some disputes cropped up between them and the 4th respondent deserted the company of the petitioner. On 14.07.2013, the 4th respondent

submitted a letter to the Secretary, Army Wives Welfare Association, Sena Bavan, New Delhi, seeking maintenance. Based on the said letter, the 3rd respondent issued show cause notice dated 10.10.2014 to the petitioner, for which, he submitted his explanation. The 3rd respondent *vide* impugned proceedings dated 8.4.2015 deducted 22% of the salary of the petitioner and sent to the 4th respondent under Section 91 (1) of the Army Act read with Rule 193 of Army Rules.

Learned Assistant Solicitor General appearing for respondents 1 to 3 raised preliminary objection with regard to maintainability of the writ petition.

Obviously, the petitioner is residing in Bikaner Army Cantonment, Rajasthan State. The 4th respondent, who is his wife, is residing in Guntur. Merely because the petitioner is a native of Guntur, he cannot file the Writ Petition before this Court as the impugned order was passed by the 2nd respondent in Rajasthan State

in exercise of powers under a statute. No part of cause of action arose within the jurisdiction of this Court. Further this Court exercises jurisdiction under Article 226 of the Constitution to issue writ of Mandamus to enforce statutory or public obligations. It is discretionary. It cannot be issued to deprive the 4th respondent of her maintenance which was granted to her by the 3rd respondent in exercise of statutory power. Hence, this Court is of the view that this writ petition is not maintainable.

Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel, Miscellaneous Applications, if any, shall stand closed.

JUSTICE R.KANTHA RAO,J

19th June, 2015
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