

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.21962 of 2015

ORDER:

Heard.

The petitioner questions the impugned endorsement of the 3rd respondent, dated 13-06-2015, wherein the 3rd respondent found that the patta certificate obtained by the petitioner is fabricated and hence in public interest, the patta certificate obtained by the petitioner was suspended and declared that the petitioner has no right in the land admeasuring Ac.3-00 cents in Sy.No.780/1 situated at Gundluru Village, Rajampet Mandal, Kadapa District. The petitioner questions the said order on various grounds that he has not been heard before passing the impugned order and also on the ground that the impugned order neither refers to any notice nor any provision of law under which the said order is passed.

I am not inclined to entertain the writ petition directly as against the order of the 3rd respondent, the petitioner can always avail the appellate remedy, if his pattadar passbooks are erroneously suspended.

Further, a perusal of the material available on record goes to show that the petitioner had earlier approached this Court by filing W.P.No.14664 of 2015, which was disposed of on 21-05-2015. In the said writ petition, the petitioner had questioned the notice issued by the 3rd respondent, dated 06-05-2015, to which the petitioner has already submitted explanation. In those circumstances, this court directed the 3rd respondent to consider the explanation and pass appropriate orders. The contention now raised by the learned counsel for the petitioner that the petitioner was not issued any notice nor the impugned order does not contain any provision of law, under which the action was taken, in my view, cannot be permitted to urge on the principle of constructive resjudicata, as the said contention ought to have been raised in the earlier writ petition referred to above. Though the learned counsel for the petitioner states that the petitioner has raised his contention in the earlier writ petition also, the order of this Court in the aforesaid writ petition does not refer to any such contention and even if such a contention was raised by the petitioner that is deemed to have been rejected and the principle of constructive

resjudicata under Section 11 CPC would still apply. Secondly, the impugned order is purely based on factual findings, which cannot be adjudicated in exercise of power under Article 226 of the Constitution of India. Hence, the writ petition is declined to be entertained.

Accordingly, the writ petition is dismissed. However, the petitioner is at liberty to avail appropriate remedy in accordance with law. There shall be no order as to costs.

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

VILAS V.AFZULPURKAR, J

Date: 15-07-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

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