

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.33357 of 2015

ORDER:

Heard.

The petitioner seeks to question the maintainability of appeal bearing No.D2/2906/2015 filed by the 5th respondent before the 3rd respondent against the order, dated 13-07-2015 in Case No.B/3845/15. The petitioner questions the maintainability of the said appeal on various grounds including that it is barred by limitation. He has also raised specific objection in paragraph '8' of the affidavit that the 3rd respondent cannot hear the appeal on the ground that the 4th respondent is acquainted with the 5th respondent and in collusion with the 4th respondent, the 5th respondent has filed an appeal before the 3rd respondent.

By reading and re-reading the said paragraph, I do not find any allegation against the 3rd respondent, which is the appellate authority.

However, the learned counsel for the petitioner states that under Rule 22-A of the Rules framed under the A.P.Rights in Land and Pattadar Pass Books Act also affect the maintainability of the appeal.

All the said contentions of the learned counsel for the petitioner amount to dealing with the merits of the said appeal, which is pending before the 3rd respondent. It cannot be denied that the petitioner can always appear before the 3rd respondent and raise all his contentions opposing the said appeal before the 3rd respondent. As such, it is not as if the petitioner has no remedy, as such I find no justification to exercise extraordinary jurisdiction of this Court over looking the appellate remedy available before the 3rd respondent.

I do not see any inherent lack of jurisdiction on the part of the 3rd respondent in entertaining the said appeal. So far as the bar of limitation is concerned, it being always a mixed question of law and fact, the petitioner

can as well appear before the 3rd respondent and raise that contention also apart from other contentions. If such contentions are raised, the 3rd respondent is duty bound to hear both the parties, consider the objections of the petitioner and then pass a reasoned order in accordance with law. Therefore, no reasons exist to entertain the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 09-10-2015

Prv