

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 2670 of 2015

ORDER:

The grievance of the petitioner in this writ petition is that the order dated 27.12.2014 passed by the 2nd respondent is malafide and without considering the relevant factors that are required to be considered; particularly, the fact that the petitioner has purchased the property in question, in good faith and for a valuable consideration.

2. Learned counsel for the petitioner submits that the order of the 2nd respondent shows that an appeal would lie before the Revenue Divisional Officer within 30 days, and the same is in utter disregard to Section 4(A) of the Act 9 of 1977 which provides a time limit of 90 days for preferring an appeal. Learned counsel further submits that this itself would be sufficient to come to the conclusion that there is total non-application of mind on the part of the 2nd respondent in passing the impugned order. Learned counsel would also submit that the 2nd respondent was piqued with the fact that the petitioner had filed a writ petition before this Court earlier and also a Contempt Case wherein he was required to submit explanation.

3. On the other hand, learned Assistant Government Pleader submits that malafides cannot be attributed to the 2nd respondent inasmuch as the petitioner failed to make the Tahsildar by name as a party-respondent. He states that mentioning of 30 days as time limit for appeal could be due to inadvertence. He further submits that the petitioner has an alternative remedy under Section 4(A) of the Act; and in that view of the matter, the petitioner may be relegated to avail the remedy available to him under the statute.

4. The very order that is impugned reveals that on an earlier

occasion, the petitioner has approached this Court by way of a writ petition in W.P.No.9685 of 2014, wherein this Court allowed the said writ petition; and for non-compliance of the orders of this Court in the said writ petition, the present incumbent who is officiating as the 2nd respondent had to appear before this Court in the contempt proceedings in C.C.No.1080 of 2014.

5. In that view of the matter, I find some justification in the petitioner's apprehension that the result was pre-determined before passing the impugned order. However, considering the fact that there is an effective alternative remedy of appeal under the Statute, the writ petitioner is directed to avail the alternative remedy by filing an appeal under Section 4(A) of the Act, before the Revenue Divisional Officer. Till such time the Revenue Divisional Officer disposes of the appeal filed by the petitioner, the respondents shall not take any coercive steps, including interference or eviction of the petitioner from the land in question.

6. With the above direction, the writ petition is disposed of. No order as to costs.

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

CHALLA KODANDA RAM, J

10th February, 2015

KSM