

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.1751 of 2016

ORDER:

The petitioner questions the entertainment of appeal by respondent No.2 and challenges the notice issued to the petitioner by respondent No.2 proposing to conduct enquiry vide notice No. Rc.B.8375/2015 dated 21.12.2015.

2. The petitioner states that he has already filed a suit in O.S.No.240 of 2012 before the II Additional Senior Civil Judge, Nandyal, Kurnool District, for permanent injunction and an order of *status quo* was granted in his favour. Against the said order, he preferred an appeal in C.M.A.No.12 of 2012 before the learned III Additional District Judge, Kurnool at Nandyal and the same was allowed on 21.12.2012 granting temporary injunction in his favour. Petitioner states that without succeeding in the said civil proceedings, respondent No.3 has filed the present case and that respondent No.2 has no jurisdiction to look into the matter.

3. Learned counsel for the petitioner stated that an appeal is not maintainable in view of the findings of the civil Court.

4. I am, however, unable to see any inherent lack of jurisdiction in respondent No.2 so as to interdict the proceedings before him for cancellation of D-form patta granted to the petitioner. Since notice was given to the petitioner, he can as well appear in the said proceedings before respondent No.2 and raise all his contentions both factual and legal so that respondent No.2 would be in a position to consider the same and then, pass appropriate orders. At this stage, interdiction of the proceedings both factual as well as legal of respondent No.2 is not warranted.

5. Accordingly, the Writ Petition is disposed of giving liberty to the petitioner to appear before respondent No.2 and file all his objections which he intends to raise. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE VILAS V.AFZULPURKAR

Date: 03.02.2016

AMD

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