

HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No. 3249 of 2016

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ORDER:

The petitioner approached this Court previously in W.P.No.38685 of 2015 complaining of action taken by the respondents herein to dispossess him from his land. The said writ petition was filed, alarmed by a notice given by the 5th respondent-Tahsildar, Prathipadu Mandal, dated 13.10.2015, under Rule 3 of the A.P. Assigned Lands (Prohibition of Alienation) Act 1977. The petitioner stated that he had already submitted a reply on 27.10.2015 and apprehending threat of dispossession, the said writ petition was filed. After hearing the learned senior counsel for the petitioner, the said writ petition was disposed of with the following directions:

"The writ petition is, therefore, disposed of directing the 4th respondent to ensure that there is no dispossession of the petitioner or interference, otherwise by the 4th respondent or his subordinates with the petitioner's possession and enjoyment of the aforesaid land, till the 4th respondent considers the petitioner's reply and pass a reasoned order, either accepting or rejecting the said reply. In the event of any adverse order being passed against the petitioner, the same shall not be given effect to for a period of two weeks, to enable the petitioner to avail alternative appellate remedy. The petitioner is granted a weeks time in the event if it wishes to file additional reply and thereafter, the 4th respondent shall consider the request of the petitioner and then take appropriate decision while passing the reasoned order and communicate the same to the petitioner. There shall be no order as to costs."

Thereafter, the petitioner states that he has given a detailed additional reply on 04.12.2015. However, the impugned order is passed directing his eviction on the ground of acquiring the assigned land. The said impugned order dated 23.12.2015 is alleged to have been dispatched by the Office of the 5th respondent only on 23.01.2016 and received by the petitioner on 29.01.2016. Alleging

that neither the supplemental reply of the petitioner is referred to nor the directions of this Court are complied with, the petitioner filed the present writ petition.

Though Mr. D. Hanumanth Rao, learned counsel for the petitioner, made strenuous efforts to convince the Court to entertain the writ petition, I am not satisfied that the writ petition deserves to be entertained, when the petitioner has an alternative remedy of appeal against the impugned order. In fact, the order extracted above in the earlier writ petition itself notices the said appellate remedy and it was specifically directed therein as follows:

“In the event of any adverse order being passed against the petitioner, the same shall not be given effect to for a period of two weeks, to enable the petitioner to avail alternative appellate remedy.”

The aforesaid order, therefore, not only protects the petitioner pending the proceedings before the 5th respondent, but also thereafter, if any adverse order is passed, for a period of two weeks. It is, however, for the petitioner to approach the appellate authority and seek appropriate protection, but instead, the petitioner has filed the present writ petition. It cannot be said that all the contentions of the petitioner cannot be urged before the appellate authority and redressed appropriately. Hence, with a liberty to the petitioner to avail the appellate remedy, the Writ Petition is declined to be entertained. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

VILAS V. AFZULPURKAR, J

4th February, 2016

Note: Furnish C.C. by 08.02.2016.

(b/o)

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