

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No. 16530 of 2016

ORDER:

Heard Sri T. Srikanth Reddy, learned counsel for the petitioner, learned Government Pleader for Revenue, Sri G.Narender Reddy, learned Standing Counsel for respondent No.8, and the learned Government Pleader for Home. With their consent, this writ petition is disposed of at the stage of admission.

The petitioner challenges the order of Deputy Collector and Tahsildar, Quthbullapur Mandal, Ranga Reddy District, dated 13.05.2016, whereunder, the petitioner was directed to remove the encroachments and deliver possession of the Government land as shown in the said order. Against this order, appeal shall lie before the Revenue Divisional Officer under Section 10 of the Andhra Pradesh Land Encroachment Act, 1905, but the petitioner did not avail the remedy of appeal and directly instituted this writ petition before this Court on the ground that the Revenue Divisional Officer and Joint Collector were physically present on the premises when the demolition took place. Therefore, the petitioner has no confidence in the said authorities and, therefore, this writ petition is filed.

Learned counsel for the petitioner submits that though the petitioner has 60 days time to prefer an

appeal, overnight the property is extensively damaged.

Learned Standing Counsel for the 8th respondent-Gram Panchayat as well as the Government Pleader for Revenue stated that since the petitioner has a right of appeal, without exhausting the same, he cannot invoke the jurisdiction of this Court.

Since the right of appeal is available to the petitioner, he ought to have availed such remedy. If the petitioner has apprehensions on the impartiality of an officer, who sits in appeal or in revision, while preferring an appeal, he can make a request to such officer not to hear the matter and, in such case, the matter can be made over to any other officer in the same rank. Therefore, the reason urged by the petitioner is not valid to entertain the writ petition. Since the petitioner has a valid right of appeal provided by the statute, he has to file the same and when there is statutory remedy available, ordinarily, this Court is not inclined to entertain the writ petition. Hence, I do not see any justification to entertain the petition even in the facts of the case.

At this stage, learned counsel for the petitioner submits that the petitioner would prefer appeal. He further submits that if further damage is made to the property, grave prejudice would be caused. He, therefore, prays for a direction to the respondents not to damage the building

further till the appeal remedy is exhausted by him.

In view of the above submissions, this writ petition is disposed of granting liberty to the petitioner to prefer appeal against the order of the Deputy Collector and Tahsildar, Quthbullapur Mandal, Ranga Reddy District, dated 13.05.2016. Along with the appeal, the petitioner is also entitled to file an application for stay of the impugned order. Subject to petitioner preferring appeal within a period of two weeks from today along with the application for stay, the respondent authorities shall not cause further damage to the building until the stay application is considered by the appellate authority and appropriate orders are passed. It is open to the petitioner to raise objections on consideration of appeal by the incumbent Revenue Divisional Officer. Even if the petitioner is in possession, he shall not undertake further constructions or repairs to the subject building until the appellate authority passes interlocutory orders or final orders, as the case may be. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

P. NAVEEN

RAO, J
19th May, 2016

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