

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.1110 OF 2017

ORDER:

The writ petition is filed seeking a writ of mandamus declaring the proceedings in C.C.No.764 of 2016 on the file of the Special Mobile Court, Eluru, West Godavari District, as illegal and arbitrary, and to quash the same.

Heard and perused the material.

Learned counsel for the petitioner submits that the petitioner is a businessman by profession, that the second respondent is a close relative of the petitioner and that they have several business transactions, and in relation thereto, certain cheques were obtained by the second respondent and his family members. The second respondent misused the said cheques and filed a private complaint under the provisions of the Negotiable Instruments Act, which is illegal and arbitrary. He further submits that the petitioner and others filed a civil suit for declaration of the subject cheques are not covered under any debt or liability and that they got interim injunction of restraining the second respondent herein from enforcing the cheques. Hence, the learned counsel prays this Court to quash the proceedings in C.C.No.764 of 2016 on the file of the Special Mobile Court, Eluru, West Godavari District, for the offence under Section 138 of the Negotiable Instruments Act.

This Court is of the view that the writ petition is not maintainable under Article 226 of the Constitution of India as the dispute is between two individuals and that the State is not a party. Hence, the writ petition is dismissed giving liberty to the petitioner to seek appropriate remedy under Section 482 of Code of Criminal Procedure.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

06.01.2017
pln

