

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.1664 of 2017

ORDER:

In the present writ petition, challenge is to the order passed by the 2nd respondent-Estate Officer under the A.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1968 (for short 'the Act') in E.C.No.6 of 2016 dated 20.12.2016.

2. When the matter is called, a preliminary objection as to the maintainability of the writ petition is taken by the learned counsel for the respondents, stating that as against the order impugned, a statutory appeal lies under Section 9 of the Act, which reads as under:

"Appeals

(1) An appeal shall lie from every order of the estate officer made in respect of any public premises under section 5 or section 7 to an appellate officer who shall be the District Judge of the district in which the public premises are situate or such other judicial officer in that district of not less than ten years' standing as the District Judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred,--

(a) in the case of an appeal from an order under section 5, within fifteen days from the date of publication of the order under sub-section (1) of that section; and

(b) in the case of an appeal from an order under section 7 within fifteen days from the date on which the order is communicated to the appellant:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the estate officer, the appellate officer pending may stay the enforcement of that order for such periods on such conditions as he deems fit the appellate officer, pending disposal of the said appeal, unless the appellate officer is satisfied,--

(i) that substantial loss may result to the party applying for stay, unless the order is made; and

(ii) that security has been given by the appellant for the due performance of such order as may ultimately be binding upon him.

(4) Every appeal under this section shall be disposed by the appellate officer as expeditiously as possible.

(5) The costs of any appeal under this section shall be in the discretion of the appellate officer.

(6) An order made by an appellate officer, shall be executable by the estate officer concerned as if it were an order made by him under sub-section (1) of section 5 or section 7, as the case may be.

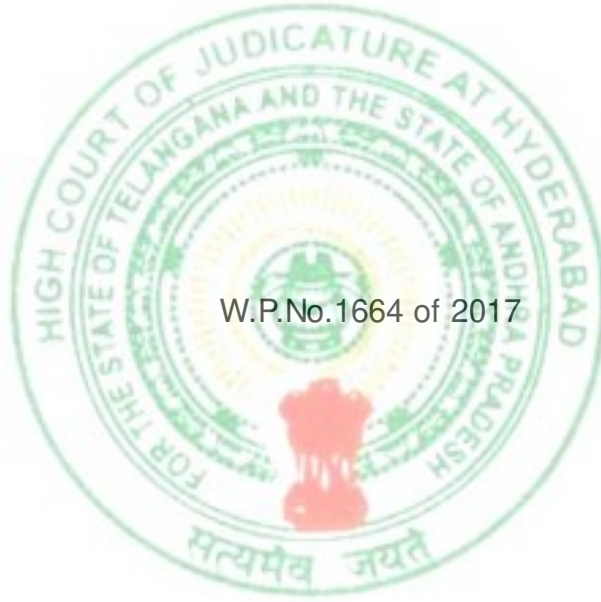
(7) For the purposes of this section, the cities of Hyderabad and Secunderabad shall be deemed to be a district judge and the Chief Judge or the Principal Judge of the City Civil Court therein shall be deemed to be the District Judge of the district."

3. In view of the above provision of law, which provides for appeal against the order impugned, this Court is not inclined to entertain the present writ petition. Accordingly, the writ petition is dismissed, with a liberty to the petitioner herein to avail the appeal remedy as mentioned supra. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 18.1.2017
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18.1.2017

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