

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11381 OF 2017

ORDER:

This writ petition is filed assailing the action of the respondents in demolishing the premises bearing Bungalow No.223 in Sy.No.492 in land admeasuring Acs.4.11 gts, situated at Marredpally, Secunderabad as illegal and arbitrary.

Heard Sri D.Prakash Reddy, learned Senior Counsel for the petitioner.

A perusal of the record shows that the petitioner had already approached the Hon'ble Apex Court by filing Civil Appeal No.7095 of 2002 against the order passed by this Court in Public Interest Litigation relating to the subject property in the writ petition. The Hon'ble Apex Court, by order dated 08.12.2005 set aside the impugned judgment in Public Interest Litigation and granted liberty to the appellant therein, who is petitioner herein to file a civil suit within a period of six weeks from that day.

Sri D.Prakash Reddy, learned Senior Counsel submits that a comprehensive suit for declaration of title and injunction i.e., O.S.No.131 of 2006 had been filed on the file of the I Additional Chief Judge, City Civil Court, Secunderabad and the same was dismissed for default and application for setting aside the same is pending.

When once a comprehensive suit has been filed and admittedly it is pending, it is for the petitioner to avail his remedies in the said suit and that he cannot avail two parallel

remedies simultaneously i.e., one by way of suit and another by way of writ petition. Moreso, first writ petition filed by petitioner was dismissed on the ground that questions of title were involved which could not be decided in summary proceedings under Article 226 of the Constitution of India and that the proper forum to decide such question was under the jurisdiction of civil court and as such, petitioner cannot again file present writ petition.

In view of above facts and circumstances, I do not see any reason to entertain the writ petition and accordingly the same is dismissed. However, it is open for the petitioner to obtain appropriate orders in the suit before the concerned civil Court and it is made clear that the Court below shall dispose of the interlocutory application of the petitioner, on merits, without being influenced by any of the observations made in this order.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

A.RAJASHEKER REDDY,J

30-03-2017
kvs

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Date: 30.03.2017

kvs

