

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

WRIT PETITION No.27790 of 2017

ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Municipal Administration and Urban Development (Telangana) for respondent No.1 and learned Standing Counsel for respondent Nos.2 to 4.

2. An order passed by the Estate Officer, Greater Hyderabad Municipal Corporation, Hyderabad, fourth respondent herein, vide notice (Form-B) No.1110/EO/E6/GHMC/2017/1841, dated 24.07.2017, under the provisions of Section 5 (1) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, the Act), is under challenge in the present writ petition.

3. When the matter is taken up, a preliminary objection with regard to maintainability of the writ petition is raised by the learned Standing Counsel for respondent Nos.2 to 4 by contenting that as against the orders impugned, appeal lies before the Court of the concerned District Judge as per Section 9 of the Act, but without availing the same, the petitioner filed the present writ petition.

4. Section 9 of the Act reads as under:

“9. 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 5B or Section 5C 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) to (6) ...”

5. In view of the said efficacious alternative remedy available to the petitioner, this Court is not inclined to entertain the present writ

petition under Article 226 of the Constitution of India and the writ petition is disposed of leaving it open for the petitioner to file an appeal under the provisions of Section 9 of the Act within a period of two weeks from the date of receipt of a copy of this order. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.V. SESA SAI, J

Date: 28.08.2017
TJMR

