

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.340 OF 2018

ORDER:

In the present writ petition, challenge is to the order passed by the Sub-Divisional Magistrate & Revenue Divisional Officer, Malkajgiri Division, Medchal-Malkajgiri District *vide* proceedings No.L/1489/2017, dated 20.12.2017, ordering attachment of Plot No.283/B, Block-B, Papireddy Nagar, Jagathgirigutta.

2. When the matter is taken up, a preliminary objection as to the maintainability of the writ petition is taken up by the learned Government Pleader for Home (TG) by contending that under the provisions of Section 397 of the Code of Criminal Procedure, 1973, there is an alternative remedy available to the petitioner herein and without availing the same, the present writ petition has been filed.

3. Section 397 Cr.P.C. reads as under:-

“397. Calling for records to exercise powers of revision.

(1) The High Court or any Sessions Judge may call for and examine the record of any proceeding before any inferior Criminal Court situate within its or his local jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior Court, and may, when calling for such record, direct that the execution of any sentence or order be suspended, and if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record. Explanation. All Magistrates whether Executive or Judicial, and whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Sessions Judge for the purposes of this sub - section and of section 398.

(2) The powers of revision conferred by sub - section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertained by the other of them.”

The above provision of law clearly shows that the petitioner herein has an effective alternative remedy by way of a revision, as such, this Court is not inclined to entertain the present writ petition under Article 226 of the Constitution of India.

4. Accordingly, the Writ Petition is dismissed, however, with a liberty to the petitioner herein to avail the said alternative remedy. There shall be no order as to costs.

5. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

Date : 29.01.2018
AMD

JUSTICE A.V.SESHA SAI

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