

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.10551 of 2018

ORDER:

This writ petition is filed by the petitioner, under Article 226 of the Constitution of India, assailing the judgment, dated 28.02.2018, passed by the 3rd respondent, Sub Collector-cum-Agency Sub-Judge, Paderu, in AOS no.49 of 2017, as illegal, unjust and violative of principles of natural justice.

2. I have heard the submissions of *Sri T. V. S Prabhakar Rao*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Social Welfare appearing for respondents 1 to 3.

3. Learned counsel for the petitioner while reiterating the contents in the affidavit filed in support of the writ petition would submit that by the impugned judgment, the 3rd respondent while dismissing the suit filed by the writ petitioner/plaintiff and refusing to grant a perpetual injunction passed orders permitting the respondents 5 and 6 to reside in the subject property, that is, the house property situated in Patta no.74, Hukumpeta Mandal, Lakeput village of Guda Panchayat, Visakhapatnam District; and that by the impugned judgment, the respondents 5 and 6 were thus erroneously allowed to reside in the suit schedule house; and that it was further directed that the Circle Inspector, Paderu Circle, and Tahasildar (Hukumpeta) shall break open the lock in the presence of village Sarpanch and village elders after conducting panchanama and hand over the said suit schedule house to the 1st defendant for staying there; and that for following the said directions, a time of three days only was granted; and that in that view of the matter, the petitioner is constrained to file the writ petition as the alternative remedy of appeal that is available under the Rules made under the Act is made inefficacious or ineffectual in view of the aforesaid erroneous and unsustainable directions in the judgment impugned.

4. Learned Government Pleader for Social welfare, on written instructions, a copy of which is placed on record, would submit that as per Rule 47(2) of Andhra Pradesh Agency Rules, 1924, an appeal would lie to the Agent to the State Government-District Collector and hence, the writ petition is not maintainable.

5. Learned counsel for the petitioner, in reply, would submit that an opportunity of preferring an appeal may be reserved to the petitioner and the writ petition may be disposed of by protecting the interests of the petitioner for a reasonable period.

6. Having regard to the facts and submissions, the Writ Petition is disposed of reserving liberty to the petitioner to prefer an appeal as contemplated under law against the judgment impugned in this writ petition within a period of four weeks from the date of receipt of a copy of this order. Till such completion of four weeks time, the respondents are directed to maintain absolute *status quo* as regards the possession of the petitioner over the subject property.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M. SEETHARAMA MURTI, J

10th April, 2018

Note:- Issue CC by 12.04.2018
(B/o)
RAR