

THE HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.18599 of 2018

ORDER:

Heard Mr.Raja Reddy Koneti for considerable length of time.

Learned counsel for petitioner while admitting the availability of remedy of appeal against the orders impugned in the writ petition, which are made under the A.P.Land Encroachment Act, 1905 (for short 'the Act'), tried to convince this Court as to how the writ petition is maintainable and prays for admitting the writ petition and grant of interim order.

I have perused the affidavit, no doubt, a few grounds which have bearing on objective adjudication of facts and application of law are stated. Therefore, this Court is not in complete disagreement with the submission of Mr.Raja Reddy Koneti. It cannot be said that the grounds now urged in the writ petition cannot and could not be conveniently canvassed before the appellate authority under Section 10 of the Act.

Mr.Raja Reddy was quick in answering the Court that the appellate authorities are more guided by the

departmental instructions and the party before the appellate authority is denied of fair and independent hearing, while passing the orders. The apprehension expressed by Mr.Raja Reddy cannot be completely overlooked. Now, advertng to the facts of the case, the petitioner alleges that the subject matter of order under Section 6 of the Act has been in continuous possession and enjoyment of petitioner's family for more than six decades. The petitioner relies on document dated 30.01.1970 wherein Sy.No.54/4 is also included as one of the schedules appended to the sale deed which is followed by a few transactions, issuance of pattadar passbook and entry of petitioner's name in 1-B register etc. Therefore, the objection now raised is that summary enquiry under the Act is unavailable and provisions of act are not at all applicable. The grounds raised by the petitioner are adverted to, to ensure that when the petitioner is relegated to workout the remedy of appeal before the District Collector under Section 10 of the Act, the petitioner is not eted out injustice or routine order is passed by the District Collector. Inspite of concern expressed by Mr.Raja Reddy, looking at all

the orders filed by the petitioner, this Court is of the view that petitioner can be relegated to file appeal within the statutory period prescribed by the Act. The order impugned in the writ petition and brought under challenge in the appeal is suspended pending appeal.

Having regard to the circumstances referred to above, this Court has no reason to doubt that the appellate authority/District Collector adverts to each one of the objections raised by the petitioner and passes an order, as is warranted, both in law and fact.

Writ petition is disposed of as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 07.06.2018
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S. V. BHATT, J

