

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.1372 OF 2019

ORDER:

1 Petitioner is aggrieved by the proceedings dated 21.01.2019 issued by the Tahsildar, Amberpet Mandal, in exercise of power under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905 (for brevity, 'the Act of 1905'), applicable in the State of Telangana.

2 Sri Karanam Mahesh, learned counsel for the petitioner, would concede that the petitioner is provided with an efficacious alternative remedy in the form of appeal under Section 10 of the Act of 1905. He would however contend that notwithstanding the same, this Court should entertain this Writ Petition as the Tahsildar failed to apply his mind to the issue with a proper perspective. Learned counsel would place reliance on case law in support of his contentions on the merits of the matter.

3 Though specific reliance is placed upon the decision of the erstwhile High Court of Judicature for the State of Andhra Pradesh in **Kadiyala Sudershan v. Government of Andhra Pradesh**¹, perusal of the decision reflects that the Tahsildar in the said case failed to pass a reasoned order and therefore, the learned Judge was of the opinion that the Writ Petition should be entertained and adjudicated. In the case on hand, perusal of the impugned proceedings dated 21.01.2019 reflects that the Tahsildar recorded his reasons as to why he held the petitioner to be an encroacher over Government land admeasuring 38 sq. yards in TS.No.4, Block-A, Ward-163 of Amberpet Village, Hyderabad District. For the sake of argument, even if it is accepted that the petitioner has a good case on merits, there is no reason as to why he should be permitted to circumvent the appellate remedy provided to him under the statute and come before this court by way of this Writ Petition. Needless to state,

¹ 2013 (6) ALT 42

an appellate remedy would be far wider in its scope than a Writ Petition, in which a limited enquiry can be undertaken. When the issues sought to be raised before this Court reflect upon the merits of the matter, it would be more appropriate for the petitioner to go before the appellate authority and seek resolution thereof. Disputed questions of fact would arise in the context of the examination of such issues which cannot be resolved by this court in exercise of writ jurisdiction.

4 Be it viewed from any angle, this Court is of the opinion that the petitioner would be better off approaching the appellate authority under the statute rather than coming before this court by way of this Writ Petition.

5 The Writ Petition is accordingly dismissed on this short ground. This order shall however not preclude the petitioner from invoking the statutory appellate remedy in accordance with the due procedure.

6 Pending Miscellaneous Petitions, if any, shall also stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

28th January, 2019
Kvsn