

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.13040 of 2019

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Cooperation.

Admittedly, petitioner has alternate remedy under Section 76 of the Telangana Cooperative Societies Act, 1964(for short 'the Act'), as rightly pointed out by the learned Government Pleader for Cooperation.

Learned Government Pleader for Cooperation placed reliance in the judgment of Hon'ble Supreme Court in the case of **Commissioner of Income Tax v. Chhabil Dass Agarwal**¹, wherein it is held as follows:

“15. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under [Article 226](#) despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under [Article 226](#).”

The aforesaid submission is not disputed by the learned counsel for the petitioner. However, learned counsel for the petitioner submits that the procedure envisaged for execution of the certificate issued under Section 71 of the Act is not followed by impleading the writ petitioner, since the petitioner's father passed away before the impugned orders are issued. Since the factual aspects are involved, this Court cannot go into those factual aspects, which can be gone into

¹ (2014) 1 SCC 603

by the Tribunal under Section 76 of the Act. Hence, no relief can be granted.

In view of the same, this Writ Petition is disposed of granting liberty to the petitioner to avail alternate remedy available to him under law. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

04-07-2019
kvs

A.RAJASHEKER REDDY,J



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