

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19681 OF 2019

ORDER:

This writ petition is filed with the following prayer:

“ to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus the arbitrary and high handed action of the 5th respondent society in allotment of the house plot bearing No.5 to an extent of 227 sq.yards situated at Sy.Nos 203/P to 210/P of Manikonda Jagir Village, Gandipeta (Formerly Rajendranagar) Mandal, Ranga Reddy District, belonging to the father (since deceased) of the petitioners to the third party alleged to be precede upon his disqualification of membership bearing No.282 without Notice or any order as wholly illegal, unjust, abinitio void, without jurisdiction and/or authority of law, unconstitutional, violation of Article 243 Z0, 300-A and 21 of the Constitution of India, contrary to the provisions of the T.S.Co-operative Societies Act, 1964 as well Rules, 1964 and consequently direct the 5th respondent refraining from interfering with possession and enjoyment and/or dispossession of petitioners from the aforementioned property and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

Learned Government Pleader for Cooperation as well as Sri N.Rajeshwar Rao, learned counsel appearing for 5th respondent submits that the writ petition is not maintainable since the petitioners have alternative remedy under Section 61(3) of Telangana Cooperative Societies Act, 1964 (for short “the Act”), learned counsel for the petitioners says that the membership of father of petitioners is cancelled without notice after his demise, as such the writ petition is maintainable.

In the counter affidavit filed by the 5th respondent, it is stated that membership of father of petitioners was cancelled during the year 2016-17 after due notice.

In this case, it is to be seen that petitioners are seeking declaration of cancellation of plot allotted to third party without making him/her as party to the writ petition, in whose favour plot is allotted. The petitioners have an alternative effective remedy under Section 61 (3) of the Act as contended by respondents. In spite of alternative remedy, there is no bar in entertaining the writ petition. But the facts of the case also require adjudication of disputed questions of fact regarding cancellation of membership of father of petitioners. As such, this Court is not inclined to entertain the writ petition.

In view of the above facts and circumstances, this Court is not inclined to entertain the writ petition.

Accordingly, the writ petition is dismissed granting liberty to the petitioners to avail alternative remedy available to them. The grievance of the petitioners is that they were not communicated with the proceedings regarding disqualification of membership of their father, if that is so, the respondents are directed to communicate a copy of the said order to the petitioners to enable them to challenge the same in accordance with law. No order as to costs. Pending miscellaneous applications if any shall stand closed.

A.RAJASHEKER REDDY,J

24-09-2019

Nvl



