

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

Writ Petition No.23625 of 2022

ORDER:

This Writ Petition is filed for issuance of a writ or order, more particularly one in the nature of Writ of Certiorari, to call for the records pertaining to proceedings bearing No.TW/B1/39/2022, passed by the Special Deputy Collector(TW), Utnoor, dt.16.04.2022, as being arbitrary, vindictive, illegal, ultra virus, violative of Articles 14, 16 & 21 of the Constitution of India, and against the Agency Laws and principles of natural justice.

2. Heard learned counsel for the petitioner, learned Government Pleader for Tribal Welfare appearing for respondents 1 to 3 and Dr. Challa Sreenivas Reddy, learned counsel appearing for 4th respondent, and with their consent this Writ Petition is taken up for hearing and disposal at the admission stage.

3. Petitioner contends that the impugned order has been passed by the respondents-authorities in gross abuse of powers and without taking note of the fact that the relief sought for by the 4th respondent is for recovery of possession for which the 4th respondent ought to have approached the Civil Court and not the 3rd respondent-authority.

4. Petitioner further contends that on earlier occasion the same authority had dismissed a similar application holding

that under the provisions of the Land Transfer Regulation Act, 1970, the respondents-authorities lacks jurisdiction, while in the present proceedings, the authority has exercised jurisdiction, which action of the authority is self contradictory.

5. Learned Government Pleader for Tribal Welfare appearing for respondents 1 to 3 submits that against the impugned order petitioner can avail the remedy of appeal to the Additional Agent to Government and as such the petitioner should be relegated to avail the said remedy.

6. Learned counsel for the petitioner submits that the petitioner had already availed the remedy of appeal and also filed an application seeking stay of the impugned proceedings by approaching the competent authority on 30.04.2022, and that the said application as well as the appeal, are pending consideration before the authority. However, the petitioner did not disclose the said fact in the affidavit filed into this court.

7. Having regard to the above, since the petitioner has already availed the remedy of appeal provided under the Act, it is not open for the petitioner to ride in two boats simultaneously. Thus, the petitioner cannot maintain the present writ petition under the guise of challenging the impugned order by seeking issuance of writ of certiorari to call for the records.

8. As the petitioner has already filed an appeal before the competent authority on 30.04.2022 along with an application seeking stay of the impugned order, this Court is of the view that ends of justice would be met, if the 2nd respondent, with whom the said appeal and stay application are pending, is directed to dispose of the stay application in a time bound manner.

9. Accordingly, the 2nd respondent is directed to dispose of the stay application filed by the petitioner on 30.04.2022 in the appeal preferred against the impugned proceedings dt.16.04.2022 as expeditiously as possible, preferably within a period of two (02) weeks hereof, in accordance with law and communicate his decision thereon to the petitioner.

10. Subject to the above directions, this Writ Petition is disposed of. No order as to costs.

11. Consequently, miscellaneous petitions pending, if any, shall stand closed.

T. VINOD KUMAR, J

13th May, 2022.

Note: Issue CC by 16.05.2022
B/o(gra)