

THE HON'BLE SRI JUSTICE K.SREENIVASA REDDY

WRIT PETITION No.1631 of 2023

ORDER:-

This Writ Petition is filed to issue an order or direction more particularly one in the nature of writ of *Mandamus*, to declare the Externment Order in R.O.C.No.C1/5866/2022, dated 27.12.2022 passed by the respondent No.3/District Collector-cum-District Executive Magistrate against the petitioner as illegal, arbitrary, contrary to law, violation of principles of natural justice, without jurisdiction and unconstitutional and consequently set aside the same.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Home and perused the record.

3. Learned Assistant Government Pleader for Home submits that in the month of September, 1999, the Government of Andhra Pradesh has issued notification in G.O.Ms. No. 371 Home (Police) Department, on 13.12.1999 empowering all the Principal Sessions Judges of each Sessions Division, including the Metropolitan Sessions

Judges of Hyderabad, Vijayawada and Visakhapatnam Division to act as appellate Tribunals under Section 6 of the A.P. Prevention of Anti-social and Hazardous Activities Act, 1980 (for short 'the Act'). for the purpose of hearing appeals against the orders passed under Sections 3 or Section 4 or Section 5 of the Act.

4. As can be seen from Section 6 of the Act, right of appeal is provided to the aggrieved person against whom an order under Section 3, 4 or Section 5 was passed under the said Act, to the Tribunal constituted under the Act within 15 days from the date of service of the order in the manner prescribed by Rules made in that behalf. Therefore, when the special enactment under which the impugned order was passed, provides an efficacious remedy of appeal to the petitioner, the petitioner has to exhaust the same. Instead, the petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India without preferring an appeal.

5. In view of the above facts and circumstances of the case, the Writ Petition is disposed of giving liberty to the petitioner to approach the jurisdictional Metropolitan

Sessions Judge against the impugned order passed as per the aforesaid notification issued in G.O.Ms. No. 371, dated 13.12.1999. The jurisdictional Metropolitan Sessions Judge, if approached by the petitioner, is directed to give an opportunity for hearing and pass an order within a period of two (2) months thereafter in accordance with law. No costs.

Miscellaneous petitions, if any pending, in the Writ Petition, shall stand closed.

JUSTICE K. SREENIVASA REDDY

Dated: 01.3.2023
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Date:01.3.2023

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