

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition Nos.2309 and 8617 of 2012

COMMON ORDER:

-
W.P.No.2309 of 2012 and W.P.No.8617 of 2012 are filed under Article 226 of the Constitution of India seeking the following relief/s:

W.P.No.2309 of 2012

'to issue a "Writ of Mandamus" or any other writ, order or Direction declaring the inaction of the respondent Nos.2 to 4 herein in not initiating action against the illegal construction undertaken by the 5th respondent herein contrary to the sanctioned plan in plot No.640 situated at Pragathinagar Village, Quthbullpur Mandal, Ranga Reddy District, in exercise of their statutory duties under the provisions of the A.P. Panchayat Raj Act, 1994 as being illegal, arbitrary, unconstitutional and contrary to the provisions of A.P. Panchayat Raj Act, 1994 and the Rules made thereunder and consequently direct the respondents 2 to 4 to remove the illegal constructions undertaken by the 5th respondent and pass such other order....'

W.P.No.8617 of 2012

'..to issue a Writ or order or direction more particularly one in the nature of "Writ of Mandamus" declaring the notice No.206/2011 (PR) dated 15-03-2012 issued by the 4th respondent as arbitrary, illegal, mala fide, biased and violation of principles of natural justice and consequently quash the same and pass such other order...'

2. Both the said writ petitions are filed by one K. Lakshmi.

D. Ankamma Choudary is the unofficial 5th respondent in both the writ petitions.

3. The 4th respondent Gram Panchayat filed its counters in both the writ petitions.

4. I have heard the submissions of the learned counsel for the writ petitioner, the learned counsel appearing for the 5th respondent and the learned Standing Counsel for the 4th respondent Gram Panchayat and also the learned Government Pleader for Panchayat Raj.

5. The grievance of the writ petitioner in W.P.No.2309 of 2012 is that the respondents 2 to 4 are keeping quiet without taking any action as per law against the illegal constructions that were undertaken by the 5th respondent in plot no.640 situate at Pragathinagar village of Quthbullapur Mandal of Ranga Reddy District.

6. The said writ petitioner having filed the other W.P.No.8617 of 2012 would submit that she had obtained from the 4th respondent, in the year 1994, the necessary permission for construction of a ground floor and had accordingly constructed the ground floor and that later she had also constructed the first floor, having obtained the necessary permission in the year 2008 for construction of the first floor, and that she is presently residing in the said first floor and that after the writ petitioner had made a complaint against the illegal constructions being undertaken by the 5th respondent, the notice dated 31.10.2011 was issued to the writ petitioner to remove the alleged illegal constructions allegedly made by her in her property allegedly on the representation of the 5th respondent and that later the writ petitioner had made certain representations and that finally a notice dated 15.03.2012, which is impugned by her in this writ petition, was issued stating that this writ petitioner has to remove the balconies of her building within seven days and that in the facts and circumstances, the inaction on the part of the official respondents in not taking action against the illegal constructions undertaken by the 5th respondent and their action in giving the aforementioned impugned notice to the petitioner are illegal and arbitrary.

7. During the course of hearing, the learned counsel for the 5th respondent would submit that he is entitled to the benefits of terms of G.O.Ms.No.152 Municipal Administration & Urban Development (M1) Department dated 02.11.2015 and that, therefore, he had filed an application for regularisation before the 4th respondent and that the same is pending consideration. The learned Standing Counsel appearing for the 4th respondent would submit that due to the pendency of these writ petitions, the 4th respondent is unable to take any action against the unauthorised constructions made by the 5th respondent and also the writ petitioner though both of them had made constructions in deviation of building rules and regulations and the law governing such constructions. He would also submit that the 4th respondent is unable to take any action on the application for regularisation of the 5th respondent for the reason that the writ petitions are pending.

8. The learned counsel for the petitioner and the 5th respondent would further submit that the writ petitions may be disposed of giving liberty to the 4th respondent to proceed in strict accordance with the procedure established by law before

taking any coercive action against the constructions made by the writ petitioner and the 5th respondent and also direct the 4th respondent to dispose of the application for regularisation filed by the 5th respondent, which is pending consideration of the 4th respondent. The learned counsel for the writ petitioner would submit that a direction may be given to the 4th respondent to receive and consider the objections, if any, filed by the petitioner and also provide her an opportunity of hearing before considering and disposing of the regularisation application of the 5th respondent.

9. Recording the submissions, the writ petitions are disposed of directing the 4th respondent to consider and dispose of the regularisation application filed by the 5th respondent in strict accordance with the procedure established by law, however, after providing an opportunity of hearing to the 5th respondent as well as the writ petitioner. It is made clear that the writ petitioner is at liberty to file objections, if she so desired and so advised, for due consideration by the 4th respondent while disposing of the said application of the 5th respondent. The 4th respondent is further directed not to take any coercive actions including demolitions of the constructions, which are unauthorised and which are made in deviation of the building rules, regulations and bylaws, except in strict accordance with the procedure established by law. It is needless to state that the 4th respondent shall consider and dispose of the regularisation application of the 5th respondent as expeditiously as possible and at any rate not later than three (03) months from the date of receipt of a copy of this common order. No costs.

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

M. SEETHARAMA MURTI, J

21.12.2015
Vjl