

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Writ Petition No.39888 of 2012

ORDER:

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This writ petition is filed under Article 226 of the Constitution of India seeking the following relief/s:

'To issue an appropriate Writ, order or direction, one in the nature of Writ of Mandamus, declaring the action of the respondents in not considering the representation of the petitioner dated 10.10.2012, 26.04.2012 and 12.07.2010 as illegal, contrary to law, judicial precedents, fundamental rights of the petitioner and consequently direct the respondents to remove/shift the public tap from the premises bearing D.No.2-3-219 (Old 100/C), Nallagutta, Ramgopalpet, Secunderabad; and pass such other order or orders'.

[Reproduced verbatim]

2. I have heard submissions of the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent Board. I have perused the material record.

3. The case of the writ petitioner, in brief, is thus:

The petitioner is the absolute owner of the premises bearing No.2-3-219 (Old 100-C), Nallagutta, Ramgopalpet, Secunderabad admeasuring 80 square yards and that he has purchased the same under registered sale deed dated 13.03.2008, vide document No.434/2008 for a valuable consideration. Smt Hazra Begum, wife of Mohammed Abubakar, the vendor of the petitioner was the owner of the said property and she is entitled to sell the same to the petitioner and as such there is no dispute of title in regard to the said property of the petitioner. The 2nd respondent authorities for the purpose of need and for public convenience have erected a public tap on the premises of the petitioner at a time when the husband of the vendor of the petitioner was the owner of the property. After the petitioner has become the owner, he had requested the said authorities to shift the public tap located in the premises of the petitioner. In that regard the petitioner had made

representations on 10.10.2012 and 26.04.2012; but, the said representations were not disposed of by the respondents. Therefore, the petitioner is constrained to file this writ petition for declaring the inaction of the respondents in considering the petitioner's representations as illegal, contrary to law and fundamental rights of the petitioner.

4. The defence of the 2nd respondent as stated in the counter affidavit of the General Manager (Engg.), in brief is thus:

The tap was erected long time back even before the 2nd respondent Board was established in the year 1989. The Public Stand Post in question was erected in 1960's adjacent to the premises bearing No.2-3-219 (Old 100-C), Nallagutta, Ramgopalpet, Secunderabad by the then Municipal Corporation to cater the drinking water needs of the public. The said tap is the only source of drinking water for most of the people residing in that area, as most of them belong to lower income group and are not having any capacity to take individual water connections. The tap is in existence in a shed with asbestos sheet for over 50 years and nobody including the vendor of the petitioner had objected for the same at any point of time. The petitioner having been fully aware that the tap is in existence had purchased the property in question. It is not true to say that the public tap is situated in a private premises. After receiving the representations of the petitioner, inspection was made by the deponent and it was noticed that the tap is located adjacent to the house where the petitioner is residing and that the Public Stand Post is existing under AC shed since a long time and is being used by the people residing in that locality.

5. The learned counsel for the parties made submissions in line with the respective pleadings.

6. As rightly contended by the learned Standing Counsel, in this writ petition, this Court cannot go into the title of the subject property in which the tap was erected. However, as rightly pointed out by the learned counsel for the petitioner, it is only stated in the counter affidavit that it is not true to say that the public tap is situated in private premises located adjacent to the premises of the petitioner, but no positive assertion is made in the counter that the tap is located in a public place. This Court, at the time of admission, by order dated 08.12.2014, passed in W.P.M.P.No.50651 of 2012 had directed the respondents to dispose

of the representations dated 26.04.2010, 12.07.2010 and 10.10.2012 of the writ petitioner. The only grievance of the writ petitioner is that the said representations are not yet considered and disposed of.

7. Having regard to the reasons, this Court is satisfied that a direction can be given to the respondents to dispose of the representations of the petitioner dated 26.04.2010, 12.07.2010 and 10.10.2012 as such a course would meet the ends of justice.

8. Accordingly, the writ petition is disposed of directing the respondents to consider and dispose of the representations of the petitioner dated 26.04.2010, 12.07.2010 and 10.10.2012 by following principles of natural justice within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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

JUSTICE M. SEETHARAMA MURTI

4th November, 2015

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THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Writ Petition No.39888 of 2012

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04th November, 2015

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