

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.25716 of 2009

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the writ petitioner seeking the following relief/s:-

“....to issue an appropriate writ more particularly one in the nature of writ of Mandamus declaring the action of the respondents in treating the name Board fixed on the parapet wall of the business premises of petitioner at Premises No. 23 & 24, 4th floor, Kimtee Square, Road No. 12, Banjara Hills, Hyderabad as Advertisement and issuing demand notices demanding to pay advertisement fee and threatening to remove the name board without considering explanation submitted by petitioner, as illegal, arbitrary and against the Section 421 of HMC Act and without jurisdiction and to pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

(Reproduced verbatim)

I have heard the submissions of the learned counsel for the writ petitioner and the learned standing counsel for the GHMC appearing for the respondents 1 and 2. None appeared for the 3rd respondent/ unofficial respondent.

The case of the writ petitioner, as set out in the writ petition, in brief, is this:-

“The petitioner is doing hotel business in the name and style of ‘Yellow Chilli (Hot Rocks)’ after obtaining a licence from the erstwhile Municipal Corporation of Hyderabad. While so, the 3rd respondent, who was said to have been an authorised agent of the respondents 1 and 2 to collect certain fee/tax in respect of advertisements, had served a demand notice dated 26.09.2009 on the petitioner by treating the name board of the petitioner’s business premises as an advertisement board or a hoarding and *inter alia* stating that the 3rd respondent is an authorised agent of respondents 1 and 2 for collection of advertisement fee. The petitioner’s name board, which was erected or which was displayed on the parapet wall of the business premises does not come within the purview of the provision of Section 21 of the Hyderabad Municipal Corporation Act, 1955. Therefore,

no permission is required to be obtained for displaying such a name board on the parapet Wall of the business premises of the petitioner and that on such name board, no fee is collectable by the Municipal Corporation of Hyderabad or its agent. Before the impugned demand notice was issued, no opportunity of hearing was given to the petitioner by serving a show-cause notice and directly a demand notice demanding fee was served on the petitioner by the third respondent, a private agency of respondents 1 and 2. The respondents are threatening to dismantle/demolish the wall on which the name of the petitioner's hotel was written. The action of the respondents is not in accordance with the procedure prescribed by law and is illegal, arbitrary and without any authority. Hence, the present writ petition is filed to quash the demand notice."

The learned counsel for the writ petitioner, while making submissions in-line with the pleaded case, places reliance upon two decisions of this Court in ***Rama Devi Multi Speciality Dental Clinic and others Vs. Greater Hyderabad Municipal Corporation and others***^[1] and ***Kasturi Brothers, Dress Materials and Saree Shop, Hyderabad Vs. Municipal Corporation of Hyderabad, Hyderabad and another***^[2] and submits that the subject matter is a covered matter and that therefore, the writ petition may be disposed of by setting aside the demand notice, which is impugned and directing the GHMC to give an opportunity to the petitioner to make its representation and then consider the issue once again afresh and take appropriate decision in regard to the levy of fee on the name board of the petitioner in question and pass appropriate orders in that regard in accordance with the procedure prescribed by law.

I have gone through the decisions cited supra. The learned standing counsel for GHMC would submit that the GHMC has no objection for the petitioner seeking the relief as now stated by the learned counsel for the writ petitioner and for passing appropriate orders.

Recording the said submissions of the learned counsel for the

parties, the writ petition is allowed in part and the demand notice dated 26.09.2009 issued by the third respondent is quashed. Accordingly, the petitioner is directed to make a representation to the GHMC within a period of four (04) weeks from the date of receipt of a copy of this order; and, on receipt of such representation from the petitioner, the respondents 1 and 2/GHMC shall decide the issue of the liability of the petitioner to pay the fee in question and pass appropriate orders as expeditiously as possible, however, in strict accordance with the procedure established by law. There shall be no order as to costs.

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

M.Seetharama Murti, J

30th December, 2015
Bvv

[\[1\]](#) 2010 (3) ALT 302

[\[2\]](#) 2007 (1) ALD 481