

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42818 of 2015

ORDER:

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

“....to issue writ order or direction more particularly one in the nature of writ of 'Mandamus' declaring the action of the 3rd respondent in issuing the notice dated 28-11-2015 to the predecessor in title, inspite of application for regularisation under Building Penalisation Scheme is pending since 2008 as illegal, arbitrary, unreasonable and contrary to article 14 of the Constitution of India and set aside the notice dated 28-11-2015 issued by the 3rd respondent and consequently direct the respondents to regularise the pent house Building of the petitioner H.No.13-143/1, Plot No.15(G+2 Floors and Pent House)Plot No.15, Bibisaheb Maqtha Village,Peerzadiguda Grampanchyayat,Ghatkesar Mandal, Ranga Reddy District, under Building penalisation scheme as per the application dated 28-06-2008 without insisting for fresh application therefor and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

(Reproduced Verbatim)

I have heard the submissions of the learned counsel for the writ petitioner, the learned standing counsel for HMDA representing the 2nd respondent, and the learned standing counsel for the 3rd respondent-Grampanchayat. I have perused the material record.

The case of the writ petitioner, in brief, is this: “She had purchased the subject house property under a registered Sale Deed dated 07.03.2011. She had made an application on 28.06.2008 under the Building Penalization Scheme. She had paid the required fee in a sum of Rs.37,114/- to the 2nd respondent *vide* demand draft dated 31.12.2012 and made a further representation on 11.01.2013 reminding the Officer of the 2nd respondent that the said application is pending since 2008. Thus, she is entitled to the benefits of the earlier Building Regularization Scheme that was in vogue at the time of her application. While so, the 3rd respondent-Panchayat had issued the

impugned notice dated 28.11.2015 requiring her to once again apply for regularization in terms of G.O.No.152 dated 02.11.2015. Feeling aggrieved, the writ petition is filed by the writ petitioner.' The learned counsel for the petitioner, made submissions in line with the case pleaded in the writ petition.

The learned standing counsel for the 2nd respondent would submit that the earlier application was submitted by the petitioner way back in the year 2008 and that a reminder was issued by her in the year 2013 and that the necessary fee was paid in December 2012, according to the submissions of the writ petitioner and that in view of the lapse of time and the peculiar facts and circumstances of the case, if the petitioner submits a comprehensive representation stating all the facts, that would enable the 2nd respondent to take an appropriate decision in the matter in regard to the entitlement to the regularization of her building under the Building Penalization Scheme.

The learned standing counsel for the 3rd respondent endorses the said submission.

The learned counsel for the writ petitioner would submit that if a direction as sought for by the learned standing counsel is given, the ends of justice would be met. He further requests that a further observation be made that the petitioner's application of the year 2008 be considered in accordance with the procedure established by law.

Recording the submissions, the writ petition is disposed of directing the writ petitioner to submit a comprehensive representation afresh to the 2nd respondent with all the necessary facts and chronology of events to enable the 2nd respondent to consider and dispose of in strict accordance with the procedure established by law the original application submitted by the petitioner in the year 2008 as per the then existing Scheme. It is made clear that the writ petitioner shall submit the application afresh as now directed, within four (4)

weeks from the date of the receipt of a copy of this order; and on receipt of such application, the 2nd respondent shall dispose of the same, as expeditiously as possible, but not later than eight (8) weeks thereafter. The respondents shall not take any coercive action including demolition of the subject property of the petitioner, until the disposal of the application of the petitioner as directed in this order. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand dismissed.

M.Seetharama Murthi, J

31st December, 2015
cbs

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