

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.11790 of 2016

ORDER:

Heard Sri P. Suryanarayana Murthy, learned counsel for the petitioner, and Sri Ancha Panduranga Rao, learned Standing Counsel for the first respondent –Municipal Corporation of Nellore.

The prayer of the petitioner in this case is as under:

“It is prayed that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.1 Corporation in high-handedly entertaining the illegal Construction of 'Felicity Mall', a Commercial Multiplex Complex', in Plot Nos. 15 to 23 of L.P. No. 251/1965 in C.A.S. No. 562/2 of Nellore Municipality, in an extent of 1.657 Acres or 6702.318 Sq. Metres carried out by the Respondent No.3 and in entertaining the act of road encroachment of Lay-out roads by the Respondent No. 3, without considering the Complaints or Notices of the Petitioner, as wholly illegal, arbitrary, against the Principles of Natural Justice and contrary to the provisions of the Municipal Corporation Act, 1955 and consequentially direct the Respondent No.1 Corporation to forthwith take all necessary actions against the illegal Construction of 'Felicity Mall', a Multi Storied Commercial Complex of the Respondent No.3 and against the road encroachment by Respondent No.3 from North-West towards North-East and from North-West towards South-West of the Building Permission Plan sanctioned to the Respondent No.3 and to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

It appears that the petitioner made representations dated 03.08.2013, 01.12.2014 & 26.10.2015 to the Commissioner, Municipal Corporation of Nellore, the first respondent, and the same are pending consideration.

In the light of the order proposed to be passed by this Court, there is no necessity to put the unofficial respondent on notice as this Court is not venturing to adjudicate any issue on merits.

As the representations dated 03.08.2013, 01.12.2014 &

26.10.2015 made by the petitioner are yet to be acted upon, it is for the authority concerned to apply its mind to the said representations and take action thereon, if warranted, in accordance with the due procedure. In this exercise, the authority would necessarily have to give an opportunity of hearing to all the parties who would be affected by any decision taken upon the petitioner's representations. Adhering to this procedure, the first respondent shall duly consider the petitioner's representations dated 03.08.2013, 01.12.2014 & 26.10.2015 and take appropriate action in the matter, if warranted, in accordance with law. This exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a copy of this order.

The writ petition is disposed of with the above directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

11.04.2016

GJ