

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.38436 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking verbatim the following relief:

“..to issue an Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of Respondent No.4 vide its Notice No.933/UC/TPS/C3/EZ/GHMC/2017 dated 08.10.2017 purporting to remove, alter, pull down the structures in premises No.5-5-933 and 5-5-933/2 on plot No.50, situated at Chintalkunta, Agamaiah Colony, Mansoorabad, L.B.Nagar, Hyderabad as illegal, arbitrary and violation of Article 21 of the Constitution of India and consequently direct the Respondents 1 to 5 not to take any coercive steps to remove, alter, pull down the structures in premises No.5-5-933 and 5-5-933/2 on plot No.50, situated at Chintalkunta check post, Agamaiah Colony, Mansoorabad, L.B.Nagar, Hyderabad and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.”

2. Heard *Sri A.Pamakrishna Reddy*, learned counsel appearing for the petitioner; learned Government Pleader for Municipal Administration & Urban Development appearing for the 1st respondent; *Sri P.Krishna Reddy*, learned Standing Counsel appearing for the respondents 2 to 5; and *Sri M.Narender Reddy*, learned counsel appearing for the respondents 6 and 8. I have perused the material record.

3. Learned counsel appearing for the petitioner would submit as follows: 'The petitioner is only a tenant in occupation of the subject property. The petitioner has taken on lease, the Tin Roof Shed on the first floor and two mulgies in the ground floor from owners. He has made improvements to the said property like interior decoration etcetera. However, in view of the internal disputes between the

landlords, who are brothers, action was initiated and that the impugned notice under Section 452(1) of the Hyderabad Municipal Corporation Act, dated 08.10.2017, was issued threatening coercive action. The petitioner made huge investment on the business and also on the structures in the property.'

4. Learned Standing Counsel would submit that when a show-cause notice, dated 08.10.2017 was issued, there was no reply and that this writ petition without replying to the show-cause notice is not maintainable.

5. Learned counsel appearing for the petitioner would submit that an opportunity may be provided to the petitioner to submit his explanation to the impugned notice, dated 08.10.2017, by protecting the interests of the petitioner till the explanation is considered and disposed of by the authority concerned.

6. Learned Standing Counsel appearing for the respondent Corporation endorses the said submission.

7. Recording the submissions, the Writ Petition is disposed of giving liberty to the petitioner to submit an explanation to the impugned notice, dated 08.10.2017, within ten days from the date of receipt of a copy of this order. Nonetheless, on receiving such explanation, the 4th respondent shall consider and dispose of the said explanation of the petitioner and pass appropriate orders in strict accordance with the procedure established by law and communicate the decision taken thereon to the petitioner, within a week after taking such decision. Until such exercise is completed, no coercive action shall be taken against the subject property in occupation of the petitioner. On failure of the

petitioner to submit an explanation as directed in these orders, the respondent Corporation shall be at liberty to proceed further in the matter, however, in strict accordance with the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

15th November, 2017
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