

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.36431 of 2017

ORDER:

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

‘..to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondents in interfering with the construction activity in premises bearing Plot No.74 Part in Sy.No.440, 441 and 442 situated at Old Safeelguda, Block – 30, Malkajgiri village, Medchal Malkajgiri District of the petitioner contrary to the building permission vide Permit No.3/ C17/ 0926/ 2017, dated 27.09.2017 issued by the 3rd respondent as the same is illegal, arbitrary, without following due procedure and without issuing notice and in violation of Rules and GHMC Act and consequently direct the respondents not to interfere with the consideration activity in the premises bearing Plot No.74 Part in Sy.No.440, 441 and 442 situated at Old Safeelguda, Block – 30, Malkajgiri village, Medchal Malkajgiri District of the petitioner and to pass such other order or orders..’

I have heard the submissions of the learned counsel for the petitioner and the learned standing counsel for GHMC representing the respondents 2 & 3. I have perused the material record.

Learned counsel for the petitioner, while reiterating the submissions made in the affidavit filed in support of the writ petition, would further submit as follows: -‘The writ petitioner is proceeding with constructions in ground and first floors having obtained required permit order, dated 27.09.2017, from the GHMC. While the building material is gathered and construction is being proceeded with, the officers of the GHMC are threatening the petitioner to stop the construction on the ground that adjacent to the property where the construction is being proceeded with, there is a nala and that the GHMC is taking steps for clearance of all the nalas. Before asking/threatening the petitioner to stop constructions, no notice was issued by following the procedure established by law. Therefore, the present writ petition is filed.’

Learned standing counsel would submit that in view of the flooding of the roads and private properties as well as public properties on account of blockage of nalas, GHMC has taken the task of clearance of nalas and that, therefore, the complaint made that threats are being given to stop the constructions is incorrect.

However, learned counsel for the petitioner and the learned standing counsel would agree for disposal of the writ petition at the stage of admission with appropriate directions.

Accordingly, the Writ Petition is disposed of directing the respondents not to interfere with the construction activity in the subject premises of the petitioner in accordance with the approved plan. However, this order shall not preclude the GHMC from proceeding with the clearance of the nala and taking any action which is required to be taken in accordance with the procedure established by law for removal of encroachment, if any, made over the nala by the petitioner while proceeding with the constructions in question.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. Seetharama Murti, J

31.10.2017

Note: Issue CC by 01.11.2017.

[B/o]

Vjl