

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.39155 of 2017

ORDER:

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

“.... to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondents in seeking to demolish the temporary compound wall and old shed constructed in Sy.No.28 (new) corresponding Old Sy.No.9 situated at Kazipet Jagir, Hanamkonda Mandal, Warangal District without considering the explanation submitted to the notice issued under Section 452(1) and 461(1) of Hyderabad Municipal Corporation Act, 1955 dated 3.11.2017 and the notice issued under Section 452(2) of Hyderabad Municipal Corporation Act, 1955, dated 10.11.2017 as illegal, arbitrary and consequently direct the respondents not to demolish the temporary compound wall and old shed constructed in Sy.No.28 (new) corresponding Old Sy.no.9 situated at Kazipet Jagir, Hanamkonda Mandal, Warangal District without considering the explanation dated 13.11.2017 and 17.11.2017 submitted by the petitioners and to pass such other order or orders...”

(Reproduced verbatim)

2. I have heard the submissions of the learned counsel for the petitioners and of the learned standing counsel representing the 2nd respondent.

3. The grievance of the writ petitioners is this: ‘The petitioners constructed a compound wall and shed in the subject property; the GWMC-2nd respondent issued separate notices, dated 03.11.2017, to the petitioners, under Section 452(1) & 461(1) of Hyderabad Municipal Corporation Act, 1955, giving a time of seven days to the petitioner/s to show cause against the proposed action; in reply,

the 3rd petitioner sent a reply legal notice, dated 13.11.2017; in the meanwhile, the second notice, dated 10.11.2017, was issued under Section 452(2) of the said Act, *inter alia*, stating that the petitioner/s have not issued explanation to the first notice and, therefore, further action will be taken under Section 461(4)/461-A/596/636 of the said Act; aggrieved thereof, the present writ petition is filed.'

4. At the hearing, learned counsel for the petitioners submits that the subject compound wall is constructed within the permitted limits as regards height and that the second notice was issued without considering the explanation, dated 13.11.2017.

5. However, learned standing counsel would submit that since reply was not given within the time specified in the first notice, the second notice was issued in accordance with the procedure established by law and that the subject constructions are made admittedly without building permit and that in any view of the matter, the Corporation will take further action in accordance with the procedure established by law.

6. Learned counsel for the petitioners would submit that if the representations/explanations of the petitioners are considered and disposed of by the authority concerned within the time frame fixed by this Court and the interests of the petitioners are protected till such exercise is completed, the ends of justice would be met.

7. Recording the afore-said submissions, the Writ Petition is disposed of directing the 2nd respondent to consider and dispose of the explanation/s, dated 13.11.2017 and 17.11.2017 of the

petitioner/s and pass appropriate orders in strict accordance with the procedure established by law within three (03) weeks from the date of receipt of a copy of this order, however, after affording an opportunity of personal hearing to the petitioner/s and communicate the decision/s taken thereon to the petitioner/s within a week thereafter. If the petitioners fail to avail the opportunity of personal hearing despite service of notices upon them under proper acknowledgements, the authority concerned shall be at liberty to pass orders as directed supra. It is made clear that till such exercise is completed no coercive action shall be taken against the subject constructions of the petitioners.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

21.11.2017
Vjl

M. SEETHARAMA MURTI, J

