

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.36613 of 2017

ORDER:

In this Writ Petition, under Article 226 of the Constitution of India, the complaint of the writ petitioners is against the alleged attempt of the respondents to demolish the petitioner's residential building in an extent of 178.19 square meters of land and 74.58 square meters of land bearing Door No.19-138 in R.S.No.22/2, 19/3P, 20/5, R.S.No.22/2, 19/3C, 20/5P, situated at Murali Nagar, Kanuru Village, Penamaluru Mandal of Krishna District.

2. I have heard the submissions of the learned counsel for the petitioners; the learned Government Pleader for Municipal Administration and Urban Development appearing for the 1st respondent, Sri *D. Ramesh*, learned Standing Counsel appearing for the 2nd respondent; and of Sri *G. Seshadri Naidu*, learned Standing Counsel appearing for the 3rd respondent. I have perused the material record.

3. At the hearing, learned counsel for the petitioners would submit as follows: 'The petitioners obtained a building permission for ground + (plus) two upper floors and that in the third floor, except a water tank no other constructions are made. The petitioners are not proposing to make any further constructions in the third floor of the property. While so, an attempt is being made to demolish the structures in the third floor of the property alleging that the owners were contacted on telephone and that they refused to receive the notice and that on such refusal, a copy of the notice is affixed on a pillar of the building, which is inside. Therefore, there is no proper service of notice, as contemplated under Section 133 of the A.P. Capital Region Development Authority Act, 2014. Hence, the action of the respondents is illegal. The petitioners may be given an

opportunity to answer the notice within a time frame and the respondents may be directed to take a decision afresh after consideration of the explanation of the petitioners to the show cause notice, dated 17.07.2017.

4. Learned Standing Counsel appearing for the 2nd respondent and the learned Standing Counsel appearing for the 3rd respondent Gram Panchayat endorse the submissions to the extent that the petitioner may be given an opportunity to submit an explanation to the notice, dated 17.07.2017.

5. Having regard to the submissions, the Writ Petition is disposed of giving liberty to the petitioner to submit, within a period of three (03) weeks from the date of receipt of a copy of this order, an explanation to the notice, dated 07.07.2017, and further directing the 2nd respondent to pass an appropriate order after considering the explanation of the petitioner and communicate a copy of the decision taken to the petitioner within a week thereafter. Since the learned counsel for the petitioner submits that except water tank, no other constructions are made in the third floor, the said statement is recorded and the petitioner is directed to maintain absolute *status quo* as on today without making any further or other constructions whatsoever in the third floor of the building, as admittedly, for making constructions in the third floor, no permission is accorded by the 3rd respondent Gram Panchayat. It is made clear that this order shall not preclude respondents 2 & 3 from taking any action in strict accordance with the procedure established by law in respect of any other unauthorized constructions made by the petitioner in the subject property. Till the exercise, as directed in this order, is completed by the 2nd respondent by passing appropriate orders on consideration of the explanation of the petitioner and communication of a copy thereof, there

shall be absolute *status quo* and respondents 2 & 3 shall not take any coercive steps or action against the property of the petitioner.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 2nd November, 2017

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156

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