

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.39137 of 2017

ORDER:

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

‘.. to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the Respondent No.4 Notice No.1577/UC/CIR-28/NZ/GHMC dated 27.10.2017 consequently the explanations given by the petitioner as illegal, arbitrary, without application of mind and violation of principles of natural justice and consequently direct the 4th respondent to consider the reply of the petitioner dated 02.11.2017 and pass such other or further order or orders...’

I have heard the submissions of the learned counsel for the petitioner and of the learned standing counsel representing the respondents 2 to 4. I have perused the material record.

The case of the petitioner is this: - ‘He is renovating his flat, but not carrying out any major repairs or new constructions. The impugned notice, dated 27.10.2017, was issued under Sections 452(1) and 461(1) of HMC Act, 1955, without inspecting the flat. The petitioner has submitted a reply, dated 02.11.2017 and also sent a reminder, dated 15.11.2017. Without considering the said reply of the petitioner, coercive action is being sought to be taken against the property of the petitioner and attempts are being made to pull down the structures of the petitioner.’

At the hearing, learned counsel for the petitioner would submit that if a direction is given to the 3rd respondent to consider and dispose of the reply, dated 02.11.2017, and reminder, dated 15.11.2017, of the petitioner, the ends of justice would be met.

Learned standing counsel representing the respondents 2 to 4 while endorsing the said submission would submit that the respondents 2 to 4 would proceed in accordance with the procedure established by law against the constructions which are being made without any authorisation or permission from the municipal corporation.

Recording the submissions, the Writ Petition is disposed of directing the 4th respondent to consider and dispose of the reply, dated 02.11.2017, and reminder, dated

15.11.2017, of the petitioner within a period of three (03) weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioner within a week thereafter. Till such exercise is completed the petitioner shall not undertake any further constructions; and, the respondents 2 to 4 shall not interfere with or demolish the subject constructions of the petitioner.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

30.11.2017
Vjl

