

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition Nos.38026, 38029, 38084, 38090, 38100 and 38121 of 2017

COMMON ORDER:

These writ petitions are filed by the petitioners seeking more or less the same relief.

Learned counsel for the petitioners would submit as follows: - 'The 3rd respondent issued notices, dated 08.06.2017, to the petitioners to show cause why action for removal of unauthorised structures allegedly made on the Nala of 9 metres wide shall not be taken. To the said notice the petitioners submitted their respective replies, dated 24.07.2017, stating various objections and also requesting the municipal Corporation to furnish the material available with the Corporation. Without complying with the said request and without considering the detailed objections in the explanations of the petitioners, the impugned notices, dated 31.10.2017, were issued directing the petitioners to remove the structures within 15 days from the date of receipt of the notice. The property which stands affected under the proposed remodelling of storm water drain at Vennelagadda upstream nala-1 is the private property and it is not an encroachment on the nala. Therefore, the notices impugned are liable to be set aside.'

Learned standing counsel representing the respondents 2 & 3 would submit that first show cause notices were issued and replies were received and that after considering the replies, the impugned notices were issued giving a reasonable time of 15 days and that, therefore, the notices impugned are justified.

It is discernable from the material record that the notices impugned were issued without complying with the requests in the explanations/ replies of the petitioners and without considering in detail the objections of the petitioners. Therefore, in the well considered view of this Court, the writ

petitions can be disposed of with appropriate directions keeping in view the interim order, dated 30.09.2016, of this Court in WPMP.No.42127 of 2016 and batch in WP.No.34149 of 2016 and batch, but, with necessary modifications.

Accordingly, all the Writ Petitions are disposed of and while setting aside the notices impugned, dated 31.10.2017, the respondents 2 & 3 are directed to:

- (1) disclose the material available with the respondent authorities to the petitioners;
- (2) give the petitioners a time of two weeks for submitting further objections, if any, from the date of supply of such material to the petitioners;
- (3) after either receiving or not receiving such written objections within a period of two weeks from the petitioners, the respondent authorities shall pass a reasoned order stating why demolition is justified; and communicate such order to the petitioners within a week thereafter;
- (4) after such exercise, the petitioners shall be given a breathing time of 15 days before any coercive action of demolition of the structures erected by them is undertaken.

It is made clear that till such exercise, as stated supra is completed, the respondents 2 & 3 shall not demolish any of the structures erected by the petitioners.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M. Seetharama Murti, J

15.11.2017

Note: Issue CC in two days.

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Vjl