

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.35150 of 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased to issue a Writ order or direction, more particularly one in the nature of Writ of Mandamus or any other appropriate Writ, declaring the notice dated 07-09-2017 issued under Section 456 of HMC Act, 1955 by the 2nd respondent as illegal, arbitrary and violative of principles of natural justice and set aside the same by issuing a consequential direction to the respondents not to interfere with the possession and enjoyment of the premises bearing D.No.52-1-69/9A, Jaganadhapuram, Kakinada, East Godavari District and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of *Sri N.Sva Reddy*, learned counsel appearing for the petitioners, of learned Government Pleader for Municipal Administration & Urban Development, appearing for the 1st respondent, of *Sri A.Panduranga Rao*, learned Standing Counsel for the 2nd respondent, and of *Sri M.Ravindra*, learned Standing Counsel for the 3rd respondent-APEPDCL. I have perused the material record.

3. The facts necessary for consideration, in brief, are as follows:

The petitioners are residing in the house bearing D.No. 52-1-69/ 9A, Jaganadhapuram, Kakinada of East Godavari District, situated in an extent of 57 square yards within the Kakinada Municipal Corporation limits. While so, the 2nd respondent-Commissioner, Kakinada Municipal Corporation, issued a notice, dated 07.09.2017,

under Section 456 of the Hyderabad Municipal Corporation Act, 1955, requiring the petitioners to vacate the house within 24 hours on the ground that the subject premises is in dangerous condition. The petitioners, therefore, approached this Court by filing W.P.No.33520 of 2017. This Court disposed of the said writ petition with certain directions. The operative portion of the order in the said writ petition is as under:

“ Therefore, this Court in the facts and circumstances of the case, deems it appropriate to dispose of the writ petition, leaving open to the petitioners to submit objections/ representation along with supporting documents by treating the impugned notice, dated 07.09.2017, as show-cause notice within a period of two (2) weeks from the date of receipt of a copy of this order and if any such objections are filed within the time stipulated above, the same may be considered and appropriate action be taken by the 2nd respondent-Municipal Corporation strictly in accordance with law after giving due opportunity to all the stake holders including the petitioners and pass appropriate orders as per law. Till such exercise is completed, there shall be no coercive action pursuant to the impugned notice, dated 07.09.2017 in respect of the subject house.

Accordingly, the Writ Petition is disposed of”

Thus, till the said exercise, as directed is completed, no coercive action shall be taken, pursuant to the notice, dated 07.09.2017, which was impugned in the said writ petition. However, in the meanwhile, the Commissioner, Municipal Corporation, Kakinada, requested the Assistant Engineer, A.P. Transco, Kakinanada, to disconnect the service connection to the premises of the petitioners on the ground that it is a dangerous structure. However, after obtaining the orders from this Court, the petitioners approached the said Assistant Engineer for restoration of the power supply. The Assistant Engineer informed the petitioners that since power is disconnected pursuant to the request of the Commissioner,

Municipal Corporation, Kakinada, the petitioners are required to bring a 'No Objection Certificate' from the said authority. In view of the orders of this Court in the writ petition afore-stated, learned counsel for the petitioners submits that the petitioners are entitled to have restoration of the power supply till the exercise as directed in the earlier orders of this Court is completed.

4. Learned Standing Counsel for the respondents 2 and 3 would submit that appropriate action would be taken on the request of the petitioners.

5. I have given earnest consideration to the facts & submissions.

6. In view of the facts narrated supra and the orders of this Court in the earlier writ petition referred to supra directing that no coercive action shall be taken against the petitioners until the exercise as directed in the said orders is completed, the petitioners are entitled to live peacefully in the subject premises until such time. Therefore, they are entitled for restoration of the power supply, as a sequel. In that view of the matter, this Court is of the considered view that a direction can be issued to the 2nd respondent to issue 'No Objection Certificate' to the 3rd respondent for restoration of the power supply to the subject premises of the petitioners.

7. In the result, the Writ Petition is allowed directing the 2nd respondent to issue 'No objection certificate' for restoration of power supply by the 3rd respondent to the subject premises of the petitioners within one week from the date of receipt of a copy of this order.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

31st October, 2017

Note:- Issue CC by 01-11-2017

(B/o)

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