

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.39209 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed seeking verbatim the following relief:

“..to issue a writ, direction, order or orders more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in resorting to demolish my house bearing D.No.23-41, Mulapeta, Podalakur Road, Nellore, SPSR Nellore District, Nellore Municipal Corporation limits, without disposing the application dated 03.11.2017 for regularization of the deviations under Section 452A and 455AA of the Hyderabad Municipal Corporation Act and without following the procedure of law is illegal, arbitrary, violation of principles of natural justice and contrary to the provisions of the Municipal Corporation At and consequently direct the respondents not to take steps or indulge in any acquisition or demolition of the above said property without following procedure of law in the interest of justice and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

2. Heard *Sri V.Siva Prasad Reddy*, learned counsel appearing for the petitioner; learned Government Pleader for Municipal Administration & Urban Development appearing for the 1st respondent; and *Sri A.Panduranga Rao*, learned Standing Counsel appearing for the 2nd respondent. I have perused the material record.

3. The case of the writ petitioner and the submissions made on her behalf, in brief, are as follows:

Having obtained building permission, she got constructed ground plus two upper floors in the subject property. But, while making such constructions, certain deviations were made from the approved plan. After issuing a notice and passing orders, the 2nd respondent Corporation

demolished such constructions which were made on the front side of the building of the petitioner. The apprehension of the petitioner now is that the Municipal Corporation may demolish the constructions that were similarly made on the other sides of the building without maintaining the set backs and in deviation of the approved plan. The petitioner, therefore, submitted an application, dated 03.11.2017, for regularization of the constructions made in deviation from the building permit by having recourse to Section 452A and 455AA of the Hyderabad Municipal Corporation Act, 1955.

4. At the hearing, the learned counsel appearing for the petitioner submits that if the application, dated 03.11.2017, submitted by the petitioner is considered and disposed of, her grievance would be redressed. His further submission is that the petitioner executed a gift deed, dated 29.03.2016, in respect of a portion of her site for road widening; and that therefore, she is entitled to certain benefits while making constructions as per approved plan and that the said aspect also needs consideration by the Corporation.

5. Learned Standing Counsel, on instructions, would submit that the building regularization scheme is a time bound programme and that the said scheme is now not in vogue and that therefore, the petitioner is not entitled to seek regularization.

6. In reply, learned counsel for the petitioner would submit that the above-stated provision of law entitle the petitioner to seek regularization.

7. Having regard to the facts & submissions, the Writ Petition is disposed of directing the 2nd respondent to consider and dispose of the

application, dated 03.11.2017, of the petitioner within two weeks from the date of receipt of a copy of this order, however, in strict accordance with the procedure established by law and communicate the decision taken thereon to the petitioner within a week thereafter. Till such exercise is completed, the 2nd respondent shall not interfere with or demolish any constructions made by the petitioner in the subject property.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

21st November, 2017
RAR

M. SEETHARAMA MURTI, J



