

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.37612 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, order or direction more particularly one in the nature of Writ of Mandamus declaring the action on the part of the 2nd respondent in interfering with the construction activity of the petitioner in an extent of 177 square yards covered by Old S.No. 48/5 and new S.No. 48/4 part of Plot No.2 of an approved Layout, situated at Muralinagar, within the limits of the Greater Visakhapatnam Municipal Corporation area as per the building construction permission granted by the 2nd respondent vide B.A. No. 1086/0795/B/Z4/MAR/2017 dated 04-05-2017, as illegal, arbitrary, unwarranted, untenable, violative of principles of natural justice and also violative of Articles 14, and 300-A of the Constitution of India and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of the learned counsel for petitioner and the learned Standing Counsel appearing for respondent No.2. I have perused the material record.

3. The grievance of the writ petitioner is that despite granting permission for construction, the 2nd respondent – corporation is not allowing the petitioner to proceed with the construction in the subject property.

4. Learned Standing Counsel appearing for the 2nd respondent would submit that the permission was sought by way of online application; that at that time, there was no opportunity to verify all the aspects of the matter; and, that after permission is granted, it

came to light that the proposed construction falls in the existing road alignment; and therefore, a letter was addressed to the Visakhapatnam Urban Development Authority and a reply is awaited from the said authority, as regards the aspect as to whether the proposed construction falls in the road alignment or not.

5. Learned counsel for the petitioner would submit that the petitioner may be permitted to proceed with the construction, but, however, the petitioner will not claim equities or cost of construction, in the event it is found ultimately that the construction or a part of the construction is in the road alignment.

6. Recording the submissions, the Writ Petition is disposed of directing the petitioner to proceed with the construction in strict accordance with the permission and approved plan, however, subject to the right of the municipal corporation to remove the construction in accordance with the procedure established by law, in the event it is found that the construction or any part of the construction made by the petitioner in the subject property falls within the road alignment. It is made clear that the petitioner shall not claim any equities or cost of the construction, in the event it is ultimately found that the construction or part of the construction in the subject property falls within the alignment of the road.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

M.SEETHARAMA MURTI, J

November 10, 2017
MD