

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION Nos.35355 of 2017 & 35975 of 2017

COMMON ORDER:

W.P.No.35355 of 2017, under Article 226 of the Constitution of India, is filed by the petitioners 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 or order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the impugned notice of the 2nd respondent in ROC No. 2140/2017/TPS/-1 dated 19-10-2017 whereby directing the petitioners to remove the constructions without considering the explanation submitted by the petitioners Dt:3-07-2017 as illegal, arbitrary unconstitutional and against the principles of natural justice and consequently by setting aside the impugned proceedings of the 2nd respondent direct them to consider the explanation of the petitioner without resorting to coercive action and pass such other order or orders as this Hon’ble Court may deemed fit and proper in the circumstances of the case.”

[Reproduced verbatim]

2. W.P.No.35975 of 2017, under Article 226 of the Constitution of India, is filed by the petitioners 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 or order or direction more particularly one in the nature of writ of mandamus declaring the impugned notice of the 2nd respondent in ROC No. 2140/2017/TPS/-1 Dt:19-10-2017 whereby directing the petitioners to remove the constructions on the basis of the forcible explanation drafted at the instance of 3rd

respondent and submitted by the petitioners Dt:3-07-2017 against the interest of petitioners as illegal, arbitrary unconstitutional and against the principles of natural justice and consequently by setting aside the impugned proceedings Dt:19-10-2017 of the 2nd respondent direct them to consider the explanation of the petitioner and pass such other order or orders as this Hon'ble Court may deemed fit and proper in the circumstances of the case."

[Reproduced verbatim]

3. I have heard the submissions of Sri *Janardan Rao*, learned counsel appearing for the petitioners, learned Government Pleader for Municipal Administration and Urban Development appearing for the 1st respondent and of Sri *S.D. Goud*, learned Standing Counsel appearing for the respondents 2 & 3. I have perused the material record.

4. Learned counsel for the petitioners, apart from what has been stated in the respective writ petitions, would now submit that the petitioners may be given an opportunity to submit a fresh explanation to the 2nd respondent Municipal Corporation with an undertaking that the petitioners would remove the constructions made in deviation and contrary to the approved plan and permission and with a request to permit them to proceed with the constructions as per the permission and approved plan by reviving the permission and approval.

5. Learned Standing Counsel appearing for the 2nd respondent Municipal Corporation would submit as follows: 'The first writ petition was filed by suppressing the fact that the petitioners have given an undertaking that the constructions made in deviation of the permission and approved plan would be removed and that by

misleading the Court, an interim order was obtained. The Corporation brought to the notice of the Court the said fact. At that time, without seeking permission to withdraw the said writ petition, the present second writ petition is filed and that, therefore, the petitioners are not entitled to any equities and any relief. However, he endorses the submission that if the petitioners undertake to remove the constructions made in deviation of the permitted and approved plan, the Corporation is prepared to consider the explanation, if any, the petitioners may submit in future.'

6. Recording the submissions, the W.P.No.35355 of 2017 is dismissed as withdrawn. The W.P.No.35975 of 2017 is disposed of giving liberty to the petitioners to submit, within a period of two (02) weeks from the date of receipt of a copy of this common order, a representation to the 2nd respondent Municipal Corporation with a specific undertaking that the petitioners would remove all the unauthorised constructions, which were said to have been made in violation and in deviation of the approved plan and permission and with a request to the Corporation to permit the petitioners to proceed with the further constructions after revival of the permission and approved plan. On the petitioners submitting such a representation as directed supra, the concerned authority of the 2nd respondent Municipal Corporation shall consider and dispose of the said explanation, as expeditiously as possible, and preferably within a period of three (03) weeks thereafter and communicate the decision taken to the petitioners within a week thereafter. This order shall not preclude the Corporation from removing the unauthorised constructions still remaining in the property, if

necessary, by causing inspection through a concerned responsible officer of the Corporation as per procedure.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 16th November, 2017

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196

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