

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.39406 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner 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 declaring the action of the respondents in high handedly stopping / preventing the construction activity of the petitioner in respect of plot No. 528 in Sector II, Vadlapudi R.H. Colony, Visakhapatnam, pursuant to the building permit order No. 1086/2527/B/Z5/VDI/2016 dated 5.11.2016, which is valid till 5.11.2019, granted by the 2nd respondent corporation as being illegal, arbitrary, contrary to the principles of natural justice and violative of the provisions of the HMC Act and violative of Art. 14 and 300A of the Constitution of India and consequently direct the respondents not to interfere with the said construction activity of the petitioner and pass such other order or orders may deem fit and proper in the circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *M.Karuna Sagar*, learned counsel appearing for the petitioner, the learned Government Pleader for Municipal Administration and Urban Development appearing for the respondents 1 & 3, and of Sri *S.Lakshminarayana Reddy*, learned Standing Counsel, appearing for the 2nd respondent Municipal Corporation. I have perused the material record.

3. Though the contention is that the respondents are highhandedly stopping or preventing the construction activity of the petitioner in the subject property being carried on, in accordance with the building permit, the petitioner did not name any member of the staff or officer of the respondent authorities in the writ petition as the persons responsible for obstructing the construction being made pursuant to valid building permit.

4. Therefore, this Court, on 22.11.2017, directed the petitioner to mention the names of the officers responsible for such obstruction in a list and submit the said list; and, further directed the matter to be posted to a further date. But, no such list naming the officers responsible for obstruction of construction is filed.

5. Learned counsel for the petitioner requests for disposal of the writ petition with appropriate directions, *inter alia* undertaking that the petitioner would proceed with the constructions, in accordance with building permit.

6. Learned Standing Counsel for the 2nd respondent Municipal Corporation would submit that no obstruction was ever caused for constructions that are being made, in accordance with building permit, and in fact, no such obstructions also can never be raised when constructions are being made, in accordance with building permit, and that there are civil disputes between the petitioners and others, particularly the 4th respondent, in O.S.No.111 of 2008, on the file of the Junior Civil Court, Gajuwaka, and that the reasons for filing the writ petition, therefore, are not obscure and that when the respondent authorities are not interfering with the constructions being made, in accordance with building permit, there is no need to give any directions in this writ petition. He would further submit that if the petitioner proceeds with constructions and in the event, any complaints are received from her rivals or if any constructions are made in deviation of the building permit, liberty may be reserved to the 2nd respondent Municipal Corporation to proceed against the petitioner and the constructions, in accordance with procedure established by law.

7. Recording the submissions, the Writ Petition is disposed of, observing that the petitioner is always at liberty to proceed with the constructions in the subject property, in strict accordance with building permit. However, it is made clear that the 2nd respondent Municipal Corporation is at liberty to take any appropriate action against the petitioner and the constructions being made by the petitioner, in the event any objections are raised by the rivals of the petitioner or in the alternative, if it is noticed that any constructions are being made in deviation of the building permit.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 12th December, 2017

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