

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.38176 of 2017

ORDER:

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

'..to issue an appropriate writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondent in trying to lay CC Road in the petitioner's land in RS.No.302/ 12, Devangula Hostel Street, Gunadala, Vijayawada without acquiring the land and contrary to the orders of this Hon'ble Court in WP.No.9960 of 2007 dated 10.12.2007 in arbitrary, illegal, capricious and violative of fundamental rights guaranteed under Article 300-A of the Constitution of India and consequently direct the respondent not to dispossess the petitioner without following due process of law and pass such other orders..'

I have heard the submissions of the learned counsel for the petitioner and of the learned standing counsel representing the respondent. I have perused the material record.

The grievance of the writ petitioner is this: 'In the subject property, the respondent is trying to lay a road and also construct a nala stating that there is a passage; but, there was no such passage; the property is a private property of the petitioner; when a similar attempt was made earlier, W.P.No.9960 of 2007 was filed and the said writ petition was disposed of with appropriate directions; later the respondent issued a notice, dated 12.10.2017, calling upon the petitioner to produce his documents for verifying the title and pass appropriate orders before implementing the proposal for laying pipelines; pursuant to the said notice, the petitioner sent a reply, dated 16.10.2017, to the Commissioner of the respondent Corporation and produced his document and further sought ten days time for submitting further documents as three days time given in the notice was not sufficient to comply with the requirements in the said notice; despite such submission of the reply and the directions of this Court in the earlier writ petition, there is an attempt by the

officials of the respondent for again laying the road and pipeline in the property of the petitioner; therefore, the writ petition is filed.'

Learned standing counsel would submit that the respondent would follow the procedure established by law in the matter.

Without going into the merits of the matter, the Writ Petition is disposed of with a direction to the Commissioner of the respondent Corporation to give an opportunity to the petitioner to submit further documents, if any, within a period of ten days from the date of receipt of a copy of this order and afford an opportunity of personal hearing to the petitioner and take a decision *prima facie* about petitioner's title over the subject land on which the proposed activities are to be undertaken by the Corporation; he shall not proceed with the work without completing the said exercise. It is made clear that if the Commissioner is *prima facie* satisfied about the *prima facie* title of the petitioner over the subject land, he shall follow the procedure established by law before undertaking any work over the property of the petitioner. However, if the Commissioner is *prima facie* satisfied that the petitioner does not have any title over the subject property, he is free to proceed with the work; however after giving a time of fifteen days to the petitioner; in such an event the petitioner is entitled to approach an appropriate forum and seek the relief which the law permits. The Commissioner shall complete the aforesaid exercise within three weeks from the date of receipt of a copy of this order. On completion of the exercise he shall communicate the decision taken to the petitioner to enable the petitioner to pursue the remedial measures. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

13.11.2017
Vjl

M. Seetharama Murthi, J