

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.37407 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 therefore prayed that this Hon’ble court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to direct the respondents 1 and 2 to act in accordance with law and to prevent the illegal construction of cellar being made by the respondents 3 to 5 in Premises No.15-7-204, Bhagwan Gunj, Begum Bazar, Hyderabad, and pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *Vedula Srinivas*, learned counsel appearing for the petitioner, Sri *N. Ashok Kumar*, learned Standing Counsel appearing for respondents 1 & 2 and of Sri *C.S.N. Raju*, learned counsel appearing for respondents 3 to 5. I have perused the material record.

3. The case of the petitioner and the submissions made on his behalf by the learned Senior Counsel, in brief, are as follows: ‘The petitioner is the absolute owner and possessor of the property bearing No.15-7-212 (Old No.C-12), admeasuring 83 square yards, situated at Bhagwan Gunj, Begum Bazar, Hyderabad, having purchased the same under a registered Sale Deed, dated 18.01.2001, and that the petitioner is in possession of the same. The respondents 3 to 5 are the neighbours and they are proceeding with huge construction in their premises bearing No.15-7-204, admeasuring 346 square yards.

The properties are located in a narrow bye-lane of 10 feet width and the respondents 3 to 5 are providing a deep cellar for parking of vehicles. And, if the cellar is allowed to be constructed, that too without permission, it would lead to congestion on the road and would cause obstruction to free movement of the vehicles on the road due to movement of the vehicles into and out of the cellar. The petitioner filed representation, dated 05.10.2017, before the respondents 1 & 2 and also a further representation, dated 23.10.2017, complaining against the illegal construction of the respondents 3 to 5, but no action, so far, has been taken by the said respondents 1 & 2.'

4. Learned Senior Counsel appearing for the petitioner would submit that if a direction is given to the respondents 1 & 2 to consider and dispose of the said two representations of the petitioner, the grievance of the petitioner would stand redressed.

5. Learned Standing Counsel appearing for the respondents 1 & 2 would submit that the action has already been initiated by issuing a notice under Section 452 of the Greater Hyderabad Municipal Corporation Act, 1955, and that thereafter, the respondents 3 to 5 have approached the Court of the learned IV Junior Civil Judge, City Civil Court, Hyderabad, and filed O.S.No.2436 of 2017 and obtained injunction order against the Corporation and that the Corporation would take appropriate steps for getting vacated, the said order and would further proceed against the constructions being made by the respondents 3 to 5 contrary to the permission accorded to them.

6. Sri C.S.N. Raju, learned counsel appearing for the respondents 3 to 5 submits that he has been instructed to appear for the

respondents 3 to 5. His submission is that on the three sides of the property of the respondents 3 to 5 where the construction is going on, there are roads and that on the other side, there is a property of another and that, therefore, the petitioner herein has no *locus standi*.

7. Learned Senior Counsel, in reply, would submit that the petitioner's property is situated in the same street where the subject property of the respondents 3 to 5 is situated and where the constructions are going on.

8. Having regard to the facts and submissions, the Writ Petition is disposed of directing the respondents 1 & 2 to consider and dispose of the representations of the petitioner, dated 05.10.2017 and 23.10.2017, and pass appropriate orders in strict accordance with the procedure established by law within a period of three (03) weeks from the date of receipt of a copy of this order, however, after affording an opportunity of personal hearing to the petitioner as well as the respondents 3 to 5. It is needless to state that any decision taken shall be communicated to the petitioner and the respondents 3 to 5 within a week thereafter.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 15th November, 2017

KL

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI



WRIT PETITION No.37407 of 2017

Date: 15th November, 2017

KL