

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.36770 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 an order or direction more particularly one in the Nature of Writ of Mandamus to declare the inaction of Respondent No.1 to 4 in not taking any action against the illegal constructions being made by Respondent No.5 and 6 as against to the sanction plan vide Building Permit Order No. 146/2015 vide File No.G1/146/575/2015, dated 06.08.2015 as illegal, arbitrary and consequently to direct the Respondents 1 to 4 to take necessary steps to demolish the illegal constructions which is against to the Building Permit Order No. 146/2015 vide File No.G1/146/575/2015, dated 06.08.2015 and pass such order and orders in deem fit in circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *P. Raja Sripathi Rao*, learned counsel appearing for the petitioner, learned Government Pleader for Revenue appearing for respondents 1 & 2, Sri *N. Praveen Kumar*, learned Standing Counsel appearing for respondents 3 & 4 and of Sri *V. Ravi Kiran Rao*, learned Senior Counsel representing Sri *G. Dinesh Patil*, learned counsel appearing for respondents 5 & 6. I have perused the material record.

3. The submissions and grievance of the writ petitioner is that the respondents 5 & 6 are proceeding to make construction of a cellar and upper floors contrary to their construction permit, whereby they were accorded permission to construct stilt, ground floor plus two upper floors and that despite giving a complaint, dated 03.03.2017, by the petitioner, no action was taken by the respondents 1 to 4 and

that another neighbour by name Mr. Tirumal also lodged a complaint, dated 09.02.2017, before the Municipal Corporation, Koratla, to stop the illegal constructions of the respondents 5 & 6 by *inter alia* stating that their constructions are causing damage to the compound wall of the said neighbour, but no action so far has been taken to demolish the illegal constructions despite certain confirmation orders that were passed by the Municipality in that regard.

4. Learned counsel for the petitioner would submit that the writ petition may be disposed of directing the 3rd respondent to consider and dispose of the representations, dated 03.03.2017 of the petitioner and 09.02.2017 of the petitioner's neighbour and pass appropriate orders, as such a course would meet the ends of justice.

5. However, learned Senior Counsel appearing for the respondents 5 & 6 would submit that the said respondents were already instructed to close the cellar and the cellar was closed to show their *bona fides* and that insofar as the upper floors, which are constructed contrary to the building permit, an application for revised permit is already filed by the respondents 5 & 6.

6. Recording the submissions, the Writ Petition is disposed of directing the 3rd respondent to consider and dispose of the afore-stated representations of the petitioner and the petitioner's neighbour by name Mr. Tirumal within a period of three (03) weeks from the date of receipt of a copy of this order, however, after giving an opportunity of hearing to the petitioner as well as the respondents 5 & 6 and in strict accordance with the procedure established by law. It is made clear that despite notice for personal hearing, if the petitioner and/or

the respondents 5 & 6 fail to appear for the hearing, the 3rd respondent shall be at liberty to pass appropriate orders, as directed supra. It is needless to state that any decision taken by the 3rd respondent shall be communicated to the petitioner as well as the respondents 5 & 6. This order shall not preclude the 3rd respondent from taking appropriate action against the complained constructions of the respondents 5 & 6, however, in strict accordance with procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 20th November, 2017

KL



136

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**WRIT PETITION No.36770 of 2017**Date: 20th November, 2017

KL