

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.39194 of 2017

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking the following relief/ s:

“... to issue a Writ or Order or Direction, specially one in the nature of Writ of Mandamus, declaring the action of the respondent in issuing impugned Notice No.2W.No.45 CIR-XIV WMC/2017 dt.14.11.2017 as illegal, arbitrary, high handed one and further violative of Art.14, 21 and 300-A of the Constitution of India and pass such other order or further orders..”

(Reproduced verbatim)

2. I have heard the submissions of the learned counsel for the petitioner and of the learned standing counsel representing the respondent.

3. The grievance of the writ petitioner is this: ‘She is the owner of the subject property and the construction therein was made well within her property; when a notice was issued, on 14.11.2017, complaining that the petitioner has encroached the nala while making the subject construction and was asked to show cause within 48 hours, she issued a reply, dated 16.11.2017; without considering the said reply, the respondent Corporation is threatening to demolish the property of the petitioner without following the procedure established by law.’

4. Learned standing counsel would submit that the notice issued was only a show cause notice and that as the explanation was already offered, the respondent Corporation would consider and dispose of the said explanation in accordance with the procedure established by law.

5. Learned counsel for the petitioner while endorsing the said submission would further submit that till such consideration and disposal of the explanation of the petitioner is completed, the interests of the petitioner may be protected.

6. Recording the afore-said submissions, the Writ Petition is disposed of directing the respondent Corporation to consider and dispose of the explanation, dated 16.11.2017, of the petitioner within two (02) weeks from the date of receipt of a copy of this order, however, in strict accordance with the procedure established by law; and, communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that till such exercise is completed the respondent shall not interfere with or demolish any part of the subject property of the petitioner.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

20.11.2017

Note:- Issue CC by 21.11.2017.

(B/o)

VJI

M. SEETHARAMA MURTI, J