

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.39574 of 2017

ORDER:

This writ petition is filed seeking the following relief:

“..to issue a writ of Mandamus declaring the action of the respondents 1 and 2 herein in issuing the layout and erecting sign board over the Survey Nos.61, 68, 71 to 75, 77 to 79, 81 to 83 of Annojiguda Village, Gatkesar Mandal, Medchal District basing on the request made by the Respondent No.3 without having any entitlement and exclusive possession as illegal, arbitrary, in violation of principles of natural justice, in violation of Articles 14, 21 and 300-A of the Constitution of India and consequently cancel the layout over the Survey Nos.61, 68, 71 to 75, 77 to 79, 81 to 83 of Annojiguda Village, Gatkesar Mandal, Medchal District vide LP No.000073/LO/PLG/HMDA/2017 and to pass such other order or orders as this Hon'ble Court may deems fit just and proper in the circumstances of the case.”

2. Learned counsel for the petitioner would submit that a suit for partition is pending in respect of the subject matter and that in A.S.M.P.No.1174 of 2008 in A.S.No.528 of 2008, this Court, on 27.06.2008, granted stay of passing of final decree but held that all other proceedings may go on and that in A.S.M.P.No.1018 of 2013 in A.S.No.528 of 2008, this Court while considering the following prayer “Petition under Order 39 Rules 1 & 2 R/W Section 151 C.P.C. praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to pass order of injunction restraining the 1st respondent/ appellant from further proceeding with construction/development of its share in the suit schedule property without finalization of passage rights, pending disposal of A.S.No.528 of 2008 presented to the High Court against judgment of the Court of the II Additional District Judge, Ranga Reddy District at L.B. Nagar, Hyderabad, made in O.S.No.166 of 2003, dated 21.04.2008”, granted interim injunction as prayed for and at the same time, observed that the petitioners in the said A.S.M.P. shall not cause obstruction for the usage of the property by other sharers and that despite the pendency of the said proceedings, the third respondent applied for approval of layout in respect of the subject property and that

the HMDA authorities erected a sign board displaying that Survey No.78 layout was made *vide* L.P.No.000073/LO/PLG/HMDA/2017 and that the present writ petition is filed, as there is an apprehension that respondents 1 and 2 may allow the third respondent to change the nature of the property contrary to the orders of the Civil Court in the civil proceedings.

3. Learned Standing Counsel appearing for the second respondent submits that from the L.P. Number mentioned in the writ affidavit, it appears that it is only a technical approval and final approval of the layout is not yet granted and that if any further decision is to be taken in the matter, the representation, dated 15.11.2017, of the petitioner would be considered at that time in accordance with procedure established by law.

4. In the result, the writ petition is disposed of directing the second respondent to consider and dispose of the petitioner's representation, dated 15.11.2017, in strict accordance with procedure established by law, while taking a decision with regard to granting of approval of final layout to the third respondent. It is made clear that the second respondent shall afford an opportunity of personal hearing to the petitioner as well as the third respondent and other parties to the civil litigation, while completing the said exercise as directed supra. The petitioner shall, in support of his claim, produce necessary material documents before the second respondent to enable the said respondent to take a well considered decision in the matter.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

M. SEETHARAMA MURTI, J

Date: 06.12.2017
va