

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40952 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 hereby prayed that this Hon’ble Court may be pleased to issue order, direction more particularly in the nature of mandamus declaring the inaction of the 1st respondent to take appropriate action on petitioner's complaint dated 06.10.2017 against the irregularities committed by the 2nd respondent in obtaining Building Permit No. 1086/2076/B/Z1/PEM/2016 as illegal, arbitrary, highhanded, irresponsible and against to the principles of natural justice apart from being violative of Article 300A of the Constitution of India and consequentially direct the 1st respondent to take action on petitioner's complaint dated 06.10.2017 in the interest of justice and pass such other order or orders as this Hon’ble court deems fit and proper in the circumstances of the case.”

(Reproduced verbatim)

2. I have heard the submissions of Sri *Kambhampati Ramesh Babu*, learned counsel appearing for the petitioner, and of Sri *S. Lakshminarayana Reddy*, learned Standing Counsel appearing for the 1st respondent. I have perused the material record.

3. In this writ petition, the submission and grievance of the writ petitioner is as under: ‘The petitioner was originally having land admeasuring Ac. 0.12 cents in Survey No.27/1 of P.M. Palem, Visakhapatnam; and that the petitioner alienated 280 square yards out of the above land and an extent of 31 square yards was acquired for national highway by the National Highway Authority and the remaining extent is in his possession and enjoyment; and that the petitioner and 4 other adjacent land owners left 8 feet width common passage on the southern side and the said passage runs from East to West; and that the 2nd respondent and 5 others submitted common

application for grant of permission for constructing building in the land belongs to them without leaving the 8 feet passage, which was left by their vendors; and that, therefore, the building permission was obtained by the 2nd respondent and 5 others by making a false representation; and that the 1st respondent Municipal Corporation is not taking action on the complaint of the petitioner, dated 06.10.2017. Therefore, the present writ petition is filed.'

4. Learned Standing Counsel appearing for the 1st respondent Municipal Corporation would submit that because the property of the petitioner was acquired by National Highway Authority and without establishing the existence of the 8 feet width of common passage by obtaining an appropriate order from civil Court, the petitioner approached this Court and that the 1st respondent granted building permit order, dated 27.09.2016, and that the 2nd respondent made constructions in accordance with the building permit and that there are no violations as per the instructions received by him.

5. Recording the submissions, the Writ Petition is disposed of, reserving liberty to the petitioner to approach an appropriate Forum for redressal of his grievance now stated in this writ petition, provided the facts and law permit.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 6th December, 2017

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