

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40465 of 2017

ORDER:

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

‘.. to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents 2 & 3 in according provisional permission to the 4th respondent for erection Cell Tower on 14.11.2017 in Procs.No.04/TPS/PER/CT/CO3B/GHMC/ 2017 of the 3rd respondent for erection of Cell Tower on the roof of H.No.33-9-592, Balaji Nagar, Mansurabad village, L.B. Nagar belonging to the 5th respondent which do not have any sanctioned plan for the 4 floors or structural stability certificate in total violation of the guidelines issued by the 1st respondent under GO Ms.No.380, dated 1.8.2013 as amended in GO Ms No.146, dated 19.6.2015 and further amended under GO Ms.No.96, dated 5.8.2015 as being illegal, arbitrary and unconstitutional and consequently direct the respondents not to accord any permission for erection of Cell Tower on the house belonging to the 5th respondent bearing H.No.33-9-592, Balaji Nagar, Mansurabad village, L.B.Nagar, and pass such other order or orders...’

I have heard the submissions of the learned counsel for the petitioner and the learned standing counsel representing the respondents 2 & 3. I have perused the material record.

The submissions and grievance of the writ petitioner are as follows: -

‘The 4th respondent is erecting a Cell Tower over the property of the 5th respondent though the building of the 5th respondent, which is a four storied building, has no building permission. Further, no structural stability certificate was granted. Such an attempt to erect a Cell Tower, without following the guidelines in G.O.Ms.No.380, dated 1.8.2013, as amended in G.O.Ms.No.146, dated 19.06.2015, and further amended under G.O.Ms.No.96, dated 05.08.2015, is illegal and arbitrary. Hence, the provisional permission accorded vide proceedings, dated 14.11.2017, of the 3rd respondent is also illegal and arbitrary.’

At the hearing, learned counsel for the petitioner, while reiterating the case of the petitioner, would submit that a representation, dated 24.11.2017, is given objecting for erection of the Cell Tower by the 4th respondent on the property of the 5th respondent and that if the said representation is considered and disposed of in accordance with the procedure established by law and if the 4th respondent is restrained from erecting subject Cell Tower till such exercise is completed, the ends of justice would be met.

Learned Standing Counsel endorses the said submissions.

Recording the afore-said submissions, the Writ Petition is disposed of directing the 3rd respondent to consider and dispose of the representation, dated 24.11.2017, of the petitioner, in strict accordance with the procedure established by law within three (3) weeks and communicate the decision taken thereon to the petitioner within a week thereafter. The said exercise shall be done after affording an opportunity of hearing to the petitioner and the respondents 4 & 5. Till such exercise is completed, the respondents 2 & 3 shall not permit the 4th respondent to undertake any Cell Tower erection activity on the subject property of the 5th respondent.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

30.11.2017

Vjl