

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.44061 of 2017

ORDER:

In this writ petition, the challenge is to the notice, dated 08.12.2017, in Lr.No.G1/3007/2016-17 whereby the petitioners were asked to explain, within seven days, why the subject commercial establishment shall not be seized under Sections 441 & 461(a) of GHMC Act, 1955. It is also stated in the said notice that failing to give the explanations, further action would be taken as per law.

At the hearing, learned counsel for the petitioners submitted as follows: -
‘Though the building is in a residential area, the petitioners are putting the respective properties of the petitioners to commercial use. In response to the impugned notice, the petitioners gave explanations. The 1st petitioner gave explanation, dated 11.12.2017. Without disposing of the said explanation, the respondents are threatening to take coercive action and seize the subject properties of the petitioners. If a direction is given to the 2nd respondent to consider and dispose of the explanations submitted by the petitioners to the impugned notice and till such time the interests of the petitioners are protected, the ends of justice would be met.’

However, learned standing counsel appearing for the 2nd respondent forcefully opposed for granting any order and prayed for dismissal of the writ petition, *inter alia*, stating as follows: - ‘Earlier in respect of the entire property of which the petitioners properties/flats are parts, a writ petition, W.P.No.31503 of 2016, was filed by one Swarajya Lakshmi seeking suspension of the notice in Roc.No.G1/3007/2016, dated 27.08.2016. In that writ petition, this Court by orders, dated 23.09.2016, passed in WPMP.No.38962 of 2016 directed the petitioner therein not to use the subject premises for commercial use since the petitioner therein had not obtained permission from the 2nd respondent to put the building for commercial use; and, simultaneously granted interim suspension of the afore-stated notice, dated 27.08.2016. For violation of the said interim order, the Corporation has already initiated contempt proceedings.

The petitioners herein, who are occupants of properties in the very same building, having used their respective properties for commercial use, have violated the above said orders of this Court and hence, they are not entitled to the equitable relief.'

Learned counsel for the petitioners, in reply, would submit that by the afore-stated interim order the petitioner therein is directed not to use her premises for commercial purpose, but, there is no direction to the present petitioners and that the petitioners herein are prepared to abide by the decision that may be taken by the municipal authority after considering the explanations submitted by the petitioners.

Having regard to the facts and submissions, the Writ Petition is disposed of directing the 2nd respondent to consider and dispose of the explanations of the petitioners including the explanation, dated 11.12.2017, of the 1st petitioner and pass appropriate orders in strict accordance with the procedure established by law, however, within four (04) weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioners within a week thereafter. It is made clear that till such exercise is completed, no coercive action shall be taken against the subject properties of the petitioners.

Pending miscellaneous petitions, if any, in this writ petition shall stand closed.
No costs.

M. SEETHARAMA MURTI, J

27.12.2017

Note: Issue CC tomorrow.

[B/o]

Vjl