

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.40050 of 2017

ORDER:

This writ petition is filed seeking verbatim the following relief/s:

‘...to issue a writ, or order, or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent issued notice vide ER.No.1/9B dt.18-9-2017 to the respondents No.5 and 6 basing on the Regional Deputy Director of Town Planning, Ramanagar, Ananthapur i.e., 4th respondent and the Deputy Director, District Survey and Land Records, Kadapa YSR District are submitted their letter proceedings vide Lr.Roc.No.555/2017/A6, dt.07-09-2017 and Letter No.LPA5/702/2017 dt.13-09-2017, the respondents No.5 and 6 have only 60 feet but they have occupied of rasta i.e., 11 feet in excess duly erecting the foundation and walls around the site occupied and also slab is in progress including respondent No.7 to 10 is illegal, arbitrary and violations of the Act and consequently direct the respondent No.3 to demolish the construction of Plot Nos.97, 98, 99, 1000 and 101 in Sy.No.10/1, 10/2, 10/4, 10/5, without approval constructed by the respondents and pass any other relief....’

I have heard the submissions of the learned counsel for the petitioner and of the learned Standing Counsel representing the 3rd respondent. I have perused the material record.

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

‘Though the respondents 5 & 6 are having only 60 feet of site, they illegally and unauthorisedly occupied a rasta to an extent of 11 feet and erected foundations and constructed walls. They are proceeding with further constructions along with respondents 7 to 10. Therefore, the petitioner submitted representations, dated 07.08.2017, 28.08.2017 and 05.09.2017, to the District Collector, that is,

the 2nd respondent. The 2nd respondent directed a survey to be conducted; and, a survey is accordingly conducted. Thereafter, the 3rd respondent issued notice, dated 18.09.2017, to the respondents 5 & 6. Despite such notice, they have not stopped such illegal and unauthorised constructions; and, no further action has been taken against such constructions being made by the afore-stated unofficial respondents.'

At the hearing, learned counsel for the petitioner would submit that if action is initiated by the 2nd respondent against the said constructions being made by the respondents 5 to 10 and the representations of the petitioner are considered in accordance with law, the ends of justice would be met and the grievance of the petitioner would stand redressed.

Learned standing counsel does not dispute the submission that the 3rd respondent municipality has issued a notice, dated 18.09.2017, under Sections 192 and 336 of the Municipalities Act. He would further submit that even the petitioner also made constructions in violation of building rules and guidelines.

Having regard to the facts and submissions, the Writ Petition is disposed of directing the petitioner to submit copies of the representations, dated 07.08.2017, 28.08.2017 and 05.09.2017, to the 3rd respondent, within a week after receipt of a copy of this order; on receiving the same the said authority shall consider and dispose of the same, within three (03) weeks thereafter, in strict accordance with procedure established by law and communicate the decision taken thereon to the petitioner within a week thereafter. As a notice has already been issued by the municipality to the unofficial respondents, the municipality shall forthwith stop the subject constructions being made by them

by occupying the rasta/road, however, by following the procedure established by law. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

11.12.2017
Vjl

