

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43917 of 2017

ORDER:

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

“... to issue an appropriate writ, order or direction more particularly one in the nature of **WRIT OF MANDAMUS** declare the action of the respondents in interfering/demolishing the petitioner's constructing house in Sy.No.57/1 to an extent of Ac.0.03 cents situated at Thotapalem, Vizianagaram Municipality, Vizianagaram Mandal and District as illegal, arbitrary, violation of the principles of natural justice, contrary to the provisions of Municipalities Act and as well as the fundamental rights guaranteed under the constitution of India and consequently direct the respondents not to interfere/demolish the petitioners above said house and pass such other order or orders.....’

Learned counsel for the petitioner would submit as follows: -

Petitioner is the owner of the land in an extent of Ac.0.15 cents in Sy.No.57/1 of Thotapalem, Vizianagaram Municipality. In November, 2016, the petitioner applied for building permission to make constructions in Ac.0.03 cents out of the above said property. Since the said application is not disposed of, the petitioner started making constructions; and, the constructions have reached up to the stage of laying a slab. While so, the authorities of the 2nd respondent Corporation are threatening to demolish the constructions in the subject

property without following the procedure established by law, 'Therefore, the writ petition is filed.'

Learned standing counsel representing the 2nd respondent, on oral instructions, would submit as follows:

The subject property is a Government property. The petitioner is the present Municipal Councilor. She is making unauthorized and illegal constructions in the subject property. No such application for grant of building permit was ever submitted by the petitioner. A neighbour of the petitioner also gave a complaint against the illegal constructions being made by the petitioner. The petitioner ought to have made an application for building permission before proceeding with the constructions. Therefore, the writ petition is not maintainable.'

In reply, learned counsel for the petitioner would submit that the petitioner would make an application for building permit and till the same is considered and disposed of by the 2nd respondent, the interests of the petitioner may be protected by giving a direction to the respondent authorities not to demolish the constructions already made.

Recording the said submissions, the Writ Petition is disposed of reserving liberty to the petitioner to apply for building permit, within two weeks from the date of receipt of a copy of this order. On the petitioner making such an application, the 2nd respondent authority shall consider and dispose of the same, within two (02) weeks thereafter, in strict accordance with the procedure established by law and communicate the decision taken thereon to the petitioner within a week thereafter. Till such exercise is completed, the 2nd respondent authorities

shall not take any coercive action against the constructions already made by the petitioner; and, the petitioner shall maintain absolute *status quo* without making any further constructions in the subject property. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

M.SEETHARAMA MURTI, J

21.12.2017

Vjl

