

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.40599 of 2017

ORDER:

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

‘...to issue a writ, order or direction particularly one in the nature of writ of Mandamus declaring the action of the respondents are trying demolish the structures of the petitioner’s old house bearing 44-34-78, 44-34-78/1 in Sy.No.49/1A admeasuring Ac 200 sq.yards situated at Srinivasnagar area, Nandagiri Nagar, Akkayappalem, Visakhapatnam without notice, opportunity, while pending suit vide OS.No.567of 2017 before the court of Junior Civil Judge, Visakhapatnam, as arbitrary, illegal and violative of principles of natural justice and consequently direct the respondents not to interfere with the peaceful possession of the petitioners’ house site bearing 44-34-78, 44-34-78/1 in Sy.No.49/1A admeasuring Ac 200 sq.yards situated at Srinivasnagar area, Nandagiri Nagar, Akkayappalem, Visakhapatnam and to pass such other order or orders...’

At the hearing, a copy of the show cause notice, dated 22.11.2017, is supplied/served to the learned counsel for the petitioners, by the learned Standing Counsel representing the respondents 2 to 5.

Learned counsel for the petitioners would submit as follows: - ‘Now that the copy of the show cause notice is supplied/served, the petitioners would submit a detailed explanation to the said notice. Therefore, the writ petition may be disposed of directing the 5th respondent to consider and dispose of the explanation(s) of the petitioner(s) in accordance with the procedure established by law as such a course would meet the ends of justice. However, till such exercise is completed by the said authority, the constructions made by the petitioner(s) may be protected.’

Learned Standing Counsel would submit as follows: - ‘After the building permit is accorded an inspection was made; and, when it was noticed that the construction of the residential building is taking place by showing 1.00 metre existing common passage as side set back on Western side after showing the same in the building permit for approval for construction, the afore-stated show cause notice, dated 22.11.2017, was sought to be served; and, when it was refused to be received, it was sent by registered post with acknowledgment due, on 01.12.2017, and therefore, the writ petition is not maintainable.’

Recording the afore-said submissions, the Writ Petition is disposed of giving liberty to the petitioner(s) to submit detailed explanation(s) to the show cause notice, dated 22.11.2017, now served on the counsel for the petitioners, within a period of three (03) weeks from the date of receipt of a copy of this order; on receiving such explanation(s) or on the expiry of the three weeks time as indicated in this order above, the 5th respondent shall consider and dispose of the matter in strict accordance with the procedure established by law; however, if necessary by affording an opportunity of personal hearing to the petitioners and communicate the decision taken thereon to the petitioners within a week thereafter. Till such exercise is completed, no coercive action shall be taken by the respondents; and, the petitioner(s) is/are also directed to maintain absolute *status quo* as on today. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

M.SEETHARAMA MURTI, J

12.12.2017
Vjl