

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42839 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners, seeking the following relief:

“For the reasons stated in the accompanying affidavit, the petitioners herein prays that this Hon’ble Court may be pleased to issue writ of mandamus or any other appropriate writ or order or direction declaring the action of the Respondents in contemplating to issue construction permission/NOC in favour of the 6th Respondent or persons claiming through him in respect of the land admeasuring Ac.4-36 gts in survey Nos. 425/1, 425/2 and 425/3, Malkajgiri Village, Medchal-Malkajgiri District as arbitrary, illegal and consequently direct the Respondents not to issue any construction permission to the 6th Respondent or persons claiming through him in respect of the land admeasuring Ac.4-36 gts in survey Nos. 425/1, 425/2 and 425/3, Malkajgiri Village, Medchal-Malkajgiri District, or any part or parts thereof and pass such other order or orders in the interest of justice.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *Peri Prabhakar*, learned counsel appearing for the petitioners, the learned Government Pleader for Municipal Administration and Urban Development appearing for the 1st respondent, Sri *Chatla Madhu*, learned Standing Counsel for the Greater Hyderabad Municipal Corporation (for short, ‘GHMC’), appearing for the respondents 2 & 3, and of Sri *V.N.Goud*, learned Standing Counsel for the Hyderabad Metropolitan Development Authority (for short, ‘HMDA’), appearing for the respondents 4 & 5. I have perused the material record.

3. The submission and grievance of the writ petitioners is that as regards the subject property, there is a serious title dispute and that there is also a claim that the property is a Heritage Precinct at one point of time and that on the complaint of the Station House Officer,

Malkajgiri Police Station, the Revenue Divisional Officer-cum-Sub-Divisional Magistrate, Malkajgiri Division, Medchal-Malkajgiri District, has initiated proceedings under Section 145 of the Code of Criminal Procedure, 1973, and passed orders, dated 07.06.2017, and that pursuant to the said orders, the Tahsildar, Malkajgiri Mandal, *vide* proceedings No.TGV/SPL/2017, dated 14.06.2017, has taken possession of the subject land under a Panchanama and that despite all these facts, the 6th respondent had applied for grant of building permit for construction over the subject land, which is in dispute, and that the petitioners made a representation, dated 23.11.2017, to the Deputy Commissioner, GHMC (3rd respondent), not to consider the request of the 6th respondent and grant him building permit and that as no action is taken on such representation, the present writ petition is filed.

4. Learned counsel for the petitioners submits that if a direction is given to the 3rd respondent to consider and dispose of the said representation of the writ petitioners while considering the request of the 6th respondent for grant of building permit and if an opportunity of hearing is also granted to the petitioners in that regard, the ends of justice would be met.

5. Learned Standing Counsel appearing for the respondents 2 & 3 would submit that the building application, if any, of the 6th respondent would be considered by examining the *prima facie* title, if any, of the said respondent and that the Municipal Corporation would follow the procedure established by law.

6. Learned Standing Counsel appearing for the respondents 4 & 5 brings to the notice of the Court the letter of the Director – Planning

1, HMDA (5th respondent), dated 02.04.2016, which reflects that the Government has issued G.O.Ms.No.183, Municipal Administration & Urban Development (11) Department, dated 07.12.2015, stating that the Government has taken a decision to delete the Regulation 13 since the date of its inception and that, accordingly, Regulation 13 is deleted since the date of inception and that in that regard, if the petitioners have any grievance, they have to approach the appropriate authority.

7. Recording the submissions, the Writ Petition is disposed of directing the 3rd respondent to consider and dispose of the representation, dated 23.11.2017, of the petitioners, in strict accordance with the procedure established by law, while considering the application of the 6th respondent for grant of building permit in respect of the subject property, however, after affording an opportunity of being heard to the petitioners as well as the 6th respondent and communicate the decision taken thereon to the petitioners as and when taken. It is directed that the said exercise shall be completed, as expeditiously as possible, and preferably within a period of eight (08) weeks from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 21st December, 2017

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