

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42851 of 2017

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue a Writ or order or directions particularly in the nature of writ of mandamus declaring the action of the Officials Respondents in not demolishing the structures raised by the 4 & 5 Respondents on Public Road an extent of 65 feet breadth and 180 feet length on 80 feet existing Road by blocking the public movement as illegal, arbitrary, contrary to law, violation of Municipalities Act and unconstitutional and thereby taking action against the 4 & 5 Respondents in accordance with law, in the interest of justice and to pass such other order or orders as this Hon’ble Court may deems fit just and proper in the circumstances of the case.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *M.V. Raja Raam*, learned counsel appearing for the petitioner, the learned Government Pleader for Municipal Administration and Urban Development appearing for the 1st respondent, the learned Government Pleader for Revenue appearing for the 2nd respondent, and of Sri *N.Praveen Kumar*, learned Standing Counsel, appearing for the 3rd respondent Municipality. I have perused the material record.

3. The case of the petitioner is that he is the owner of a residential house bearing H.No.1-5-162/1, in Karimnagar Road, Jagtial District, and that the respondents 4 & 5, without any manner of right and without obtaining any building permit, started making illegal and unauthorised constructions adjacent to the said house of the petitioner by occupying the 80 feet road and that despite a representation, dated 15.11.2017, issued to the Municipal

Commissioner, City Municipality, Jagtial District (3rd respondent), no action has been taken and, therefore, the present writ petition is filed.

4. Learned counsel for the petitioner would submit that if a direction is given to the 3rd respondent Municipality to consider and dispose of the said representation, in accordance with procedure established by law, and the constructions, which are objectionable, are removed by following the procedure established by law, the ends of justice would be met.

5. Learned Standing Counsel appearing for the 3rd respondent Municipality, on oral instructions, would submit that action has already been initiated and that a notice under Section 228 of the Municipalities Act, 1965, was already issued to the persons making such unauthorised constructions and that the 3rd respondent Municipality would take further action in the matter by following the procedure established by law.

6. Recording the submissions, the Writ Petition is disposed of directing the 3rd respondent Municipality to consider and dispose of the representation, dated 15.11.2017, of the petitioner, in strict accordance with procedure established by law, however, within a period of two (02) weeks from the date of receipt of a copy of this order and communicate the decision taken thereon to the petitioner within a week thereafter. In the meanwhile, if it is noticed, on inspection by the 3rd respondent Municipality, that the constructions being made by the respondents 4 & 5 in the subject property are unauthorised and illegal and without any building permit or in deviation of a building permit, if any, the 3rd respondent Municipality shall take action

forthwith against such constructions that are made and being made, by following the procedure established by law.

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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