

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.43351 OF 2017

ORDER:

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

“... to issue Writ Order or Direction more particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the Respondents 1 to 3 in not considering the representation made by the petitioner dt.19-5-2017 with regard to the demolition of the old dilapidated house bearing D.No.3B-19-24, Assessment No. 6102 situated in Javvaji Appa Rao Street, Eluru West Godavari District, Andhra Pradesh, is illegal, arbitrary, against the principles of natural justice and also against the provisions of Municipal Corporation Act under Sec. 456 and consequently direct the 2nd respondent to demolish the said old dilapidated house bearing D.No. 3B-19-24, Assessment No. 6102 situated in Javvaji Appa Rao Street, Eluru West Godavari District, Andhra Pradesh to safeguard the lives of the students and public and pass such other order or orders that are deemed fit and proper in the circumstances of the case.”

(Reproduced verbatim)

2. Learned counsel for the petitioner would submit that the subject property of the petitioner, which is in occupation of respondent No.4-tenant, is in a totally dilapidated condition being more than 60 years old; that the said property is likely to collapse at any time; thus, it is in a dangerous condition; that if it is continued to exist in the same condition, it would endanger the lives of the people in the neighborhood; that there are schools and colleges near the building; therefore, the petitioner made a representation, dated 19.05.2017, to the Municipal Commissioner of Eluru Municipality, respondent No.2; but, no action has been

taken on the said representation of the petitioner; and, therefore, the Writ Petition is filed.

3. Learned Standing Counsel for the Corporation appearing for respondent Nos.2 and 3 would submit that since the property is in occupation of a tenant/respondent No.4, the petitioner obviously being unable to evict respondent No.4 from the property has approached the municipal corporation to demolish the property, instead of taking action in accordance with the procedure established by law and that the corporation would consider and dispose of the representation of the petitioner, however, after giving an opportunity of hearing to respondent No.4, who is admittedly in occupation of the subject property.

4. Recording the submissions, the Writ Petition is disposed of directing respondent No.2 to consider and dispose of the representation, dated 19.05.2017, of the petitioner, however, after affording an opportunity of hearing to respondent No.4. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order and the decision taken thereon, if any, by respondent No.2 shall be communicated to the petitioner as well as respondent No.4 within a week thereafter.

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

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

December 26, 2017
MD