

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

W.P.NO.40417 OF 2017

O R D E R

This writ petition is filed seeking following relief:

“...to declare the proposed action of respondents 2 and 3 in trying to demolish the building situated in Door No.10-2-1/17, Sy.No.32/3 of old Gajuwaka Junction, Ward No.63, Gajuwaka, Visakhapatnam, without giving any notice and opportunity to the petitioner, as arbitrary, illegal, unlawful, discriminatory, violative of Articles 14, 16 and 300-A of Constitution of India and also against the provisions of GHMC Act and contrary to the regularization proceedings of the said building in favour of the petitioner herein issued by authorities concerned vide Rc.No.823/2016/A dated 28.10.2017 as per G.O. Ms. No.301 of Government of A.P. dated 5-7-2016.”

The main grievance of the petitioner in this writ petition is that the respondents are threatening to demolish the building of the petitioner without considering the regularization proceedings in Rc.No.823/2016/A, dated 28.10.2017, of the said building under G.O.Ms.No.30, Revenue (Assn.I) Department, dated 5.7.2016, and without issuing a notice and considering the previous letter for grant of TDR rights to the petitioner.

At the hearing, the learned counsel for the petitioner would also submit that a detailed representation, dated 24.11.2017, was submitted by the petitioner to respondents 2 and 3 and that the same is not being considered and that the proposed coercive action is being initiated against the property of the petitioner without considering the same.

Learned Standing counsel appearing for respondents 1 to 3 would submit that the Municipal Corporation has issued notice, dated

14.11.2017, under Section 452 of Hyderabad Municipal Corporation Act, 1955, and that when the same was refused to be received, a fresh notice copy was sent by registered post, on 19.11.2017, and that the petitioner is obliged to submit an explanation to the said notice and that if the petitioner fails to either receive the said notice or give an explanation after receiving the said notice sent by registered post, the concerned authority would be obliged to take an appropriate decision in the matter in accordance with the procedure established by law.

A copy of the said notice is served today, during the course of hearing of this matter, upon the learned counsel for the petitioner and the learned counsel received the copy of the said notice, dated 14.11.2017.

In that view of the matter, the writ petition can be disposed of with appropriate directions.

Accordingly, writ petition is disposed of directing the petitioner to give an explanation/reply, within three weeks from the date of receipt of a copy of this order, to the above said notice, dated 14.11.2017, issued by the respondents under Section 452 of the above said Act. On the petitioner submitting such an explanation, the 3rd respondent shall consider the said explanation as well as the representation, dated 24.11.2017, of the petitioner and take a considered decision in the matter within two weeks from the date of receipt of explanation and communicate the decision taken thereon to the petitioner within one week thereafter. It is made clear that on failure of the petitioner to submit an explanation within three weeks as directed supra, the 3rd respondent shall be at liberty to take a decision in the matter, however

in accordance with the procedure established under law, after considering the representation already submitted.

Till such exercise as directed in this order is completed, no coercive action including demolition of any part of the subject property of the petitioner shall be taken by the respondents.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

M.SEETHARAMA MURTI, J

Date:30—11—2017

avs

