

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

W.P.NO.40372 of 2017

O R D E R:

This writ petition is filed seeking the following relief:

‘..to declare the action of the 5th respondent in issuing the proceedings in Lr.No.LRS/14760/C-3/EZ/2010/1245, dated 14.11.2017, as illegal, arbitrary and unjust and consequently set aside the same.’

Heard the learned counsel for the petitioner and learned Standing Counsel for Greater Hyderabad Municipal Corporation appearing for the respondents 2 to 5. I have perused material record.

As this Court is disposing of the writ petition at the stage of admission, there is no need to issue notice to 6th respondent.

The submissions of the learned counsel for the petitioner, in brief, are as follows: ‘When the 6th respondent was proposing to make construction in Plot No.82, Anand Nagar, Bandlaguda, an objection was raised by the petitioner for making such constructions, on the ground that the land on which the construction is proposed to be made is on the road. Thereafter, it appears the 6th respondent made an application for regularization under Land Regularization Scheme (LRS). While so, an enquiry was caused and a clarification was sought. Thereupon, the Assistant City Planner by letter, dated 31.08.2013, informed the 6th respondent that the application submitted seeking permission for proposed construction was examined and that a complaint has been received that the said plot No.82 is existing on road and that the said fact has been confirmed by the Land Acquisition Officer and as such, after getting the clarification from the Zonal

Officer in respect of LRS proceedings, building permission of 6th respondent has been kept in abeyance. The Chief City Planner, GHMC, also in his proceedings, dated 25/28.5.2011, mentioned that the land in Plot No.82 in Sy.No.40 situated in Bandlaguda village is within the ceiling limit and is existing on road and that in view of the said fact, the request of the 6th respondent, cannot be considered under LRS. Further, in the above subject matter, hearings were held by Commissioner, GHMC, on 3.5.2016, 17.5.2016 and 25.5.2016 and thereafter by the impugned notice dated 09/14.11.2017, the petitioner was informed to attend hearing along with authentic documents and explain his claim in writing, as well as his grievance for taking necessary action in the matter. In fact, when the 6th respondent earlier initiated construction activity by digging on the road, the petitioner approached the 3rd respondent-Deputy Commissioner, GHMC, for appropriate action. As there was no response, the petitioner filed W.P.No.26354 of 2014. The Special Deputy Collector/ Land Acquisition Officer physically inspected the spot and gave report, dated 25.05.2011, stating that the plot no.82 in Sy.No.40 was existing on the road and should not be considered for LRS. The 6th respondent's building permission was kept in abeyance even by 31.08.2103. The petitioner also made further representations, dated 08.06.2015 and 18.03.2016 requesting to do justice. The petitioner also filed W.P.no.33285 of 2016. Despite all the above stated facts, the impugned proceedings/letter, dated (09)14.11.2017, was issued informing the petitioner to attend for one more hearing, on 25.11.2017 at 3 PM, in the chambers of Special Deputy Collector (Land Acquisition), GHMC, Head Office, Tank Bund Road, Hyderabad, along with authentic documents and explain her claim and grievance in

writing for taking further action in the matter, stating *inter alia* that the petitioner has not presented her case. By now, there is sufficient and overwhelming material reflecting that the 6th respondent is claiming a plot on the middle of the road; and, an enquiry was already held and it was decided that the alleged plot is not a plot but is a road. Yet, by the impugned letter, the petitioner is once again being called to attend a hearing with documents though there is no need either for such an enquiry or for the petitioner to attend for one more/further hearing and produce documents relating to her plot No.92. In fact, the authority concerned, without the presence of the petitioner at the hearing, can take an appropriate decision in the matter with the help of available material before the said authority as the matter is already settled. Hence, the present writ petition is filed questioning the letter calling upon the petitioner to attend one more hearing with her documents.'

Learned Standing Counsel appearing for respondents 1 to 5 would submit that in the subject of the present notice, there is a reference to the claim of ownership on the road area in between plot Nos.82 and 99 in Sy.No.40 of Anand Nagar, Bandlaguda, and that in that view of the matter, the impugned notice was issued calling upon the petitioner to attend the hearing as fixed and produce the authentic documents and give her written submissions and that, therefore, the petitioner ought to have complied with the said direction and that the petitioner ought to have attended for the hearing, on 25.11.2017 at 3.00 pm, and that if the petitioner, who is unwilling to attend for hearing, fails to attend for the hearing, the authority concerned under

facts and in law, would be entitled to take a decision in the matter independently based on the material available before him.

Learned counsel for the petitioner, as already noted, submits that petitioner is not inclined to personally appear for a hearing and submit any further explanation and that, therefore, the authority concerned is at liberty to take an appropriate decision in the matter in strict accordance with the procedure established by law by considering the material already available before the said authority.

Recording the above submission, the writ petition is disposed of observing that the Commissioner/Deputy Commissioner, GHMC, is at liberty to take an appropriate decision in the subject matter in accordance with the procedure established by law, however after considering all the material on record before him related to the subject matter, nonetheless, within four 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.

Miscellaneous petitions pending if any, shall stand closed. No order as to costs.

M.SEETHARAMA MURTI, J

DATE: 30—11—2017
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