

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.40781 of 2017

ORDER:

This Writ petition is filed seeking the following relief:

'...to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the notices dated 28-11-2017 issued by the 3rd respondent *vide* Notice bearing Lr. No.MCK/A1/3090/2012 for demolition of petitioners shops, as being illegal, irregular, highhanded, violative of principles of natural justice, provisions of Telangana Municipalities Act and rules framed there under and offends Articles 14 and 21 of the Constitution of India and consequentially direct the 3rd respondent not to demolish the petitioner shops pending disposal of the Writ Petition; and be pleased to pass such other order/s as this Hon'ble Court may deem fit and proper in the interest of justice."

2. I have heard the submissions of Sri B. Vijaysen Reddy, learned counsel appearing for the petitioners and of Sri Sampath Prabhakar Reddy, learned Standing Counsel appearing for the third respondent – Municipality. I have perused material record.

3. It is stated that the petitioners are the tenants of the shops in the premises situated at N.H.9 High Way i.e., opposite to Municipal Office, Kodad, Suryapet District. By the impugned notices, the third respondent – Municipality informed the petitioners, on the basis of the report of the Structural Engineer, that the shops are not in usable condition and that it was decided to demolish the shops immediately and construct a new building in the said place and that the Government also released funds for construction of new vegetable market and hence, the impugned notices are being issued directing the petitioners to vacate and handover their respective shops within seven days after receiving such notices and that otherwise, steps would be taken as per the provisions of the Municipalities Act, 1965 and the Rules made thereunder. Aggrieved thereof, the petitioners approached this Court.

4. In the impugned notices, there is no reference to the date of inspection of the Structural Engineer as well as the report, if any, submitted by him.

5. Sri B. Vijaysen Reddy, learned counsel appearing for the petitioners, would submit that in case, the subject property is required for the desired

purpose, licences have to be terminated and possessions of the respective shops of the petitioners have to be taken in accordance with procedure established by law and that on the ground alleged in the impugned notices, the petitioners' possession over the properties cannot be disturbed.

6. Learned Standing Counsel appearing for the third respondent – Municipality would bring to the notice of this Court the various facts, which led to the issuance of the impugned notices. He would submit that the subject property is in ruinous condition and therefore, after obtaining inspection report of the Structural Engineer, the impugned notices were issued and that as per the instructions received by him, the petitioners are continuing in respective properties since more than 30 years and that there is no subsisting lease/licence period in their favour and their possessions are unauthorised and illegal and therefore, there is no need to follow the procedure established by law.

7. In reply, the learned counsel appearing for the petitioners would submit that there are resolutions of the Municipality whereby the rents of the respective shops of the petitioners are increased by 33 1/3% on the existing rents.

8. Admittedly, a copy of the report of the Structural Engineer is not served on the petitioners and in that view of the matter and having regard to the submissions, this Court is of the considered view that this writ petition can be disposed of with appropriate directions.

9. Accordingly, the writ petition is disposed of directing the petitioners to submit a request to the third respondent – Municipality to furnish a copy of the Structural Engineer's Inspection Report; and on the petitioners making such request, a copy of the said report shall be supplied by the third respondent – Municipality to the petitioners within three days thereafter; thereafter, the petitioners shall submit their explanations, if any, to the notices, which are impugned in this writ petition, within two weeks. On receipt of such explanations

from the petitioners, the third respondent shall consider and dispose of the same in strict accordance with procedure established by law, within three weeks thereafter, and communicate the decision taken thereon to the petitioners within a week thereafter. Till such exercise is completed as directed, the respondents shall not interfere with the subject shops of the petitioners in any manner and both parties shall maintain absolute *status quo* as on today.

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

M.SEETHARAMA MURTI, J

Date: 05.12.2017
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