

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.44337 of 2017

ORDER:

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

“... to issue an Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in issuing notice in Lr.No.TPS/Cir-21/wz/GHMC/2017, dated 18-12-2017 and taking steps to demolish the existing Nala without considering our reply dated 07-11-2017 is illegal, arbitrary and violative of Principles of Natural Justice apart from violative of Art 14 and 21 of the Constitution of India in respect of widening of nala abetting to our property i.e., B.R. Hema Durga Towers, a gated community situated in part of Sy.Nos.26 to 29 of Hafeezpet Village and 65 and 66 of Miyapur Village, Ranga Reddy District and consequently direct the Respondents 2 to 5 not to take any steps to demolish the existing nala in B.R. Hema Durga Towers, a gated community situated in part of Sy.Nos.26 to 29 of Hafeezpet Village and 65 and 66 of Miyapur Village, Ranga Reddy District pass such other and further order or orders.....”

At the hearing, learned counsel for the petitioner association, while bringing to the notice of the Court the contents of the affidavit filed in support of the writ petition, would *inter alia* emphasize on the damage that would be caused to the subject property of the petitioner association if the respondents go ahead with the activity of widening the nala without heeding the representations of the petitioner association. He would also submit that the petitioner association is not against the widening of the storm water drain, but, it only makes a request to the

GHMC officials to take up the widening of the said existing two meter width nala to 4.5 meters width, as proposed, by widening on the other side of the nala instead of completely demolishing the structures of the petitioner association by widening the nala on one side. He would further submit that several representations were given in this regard, but, no action has been taken and that without considering the said representations, the present impugned notice, dated 18.12.2017, was issued directing to remove the unauthorized structures within 7 days from the date of receipt of the said notice and seeking co-operation; but, in the circumstances stated, it is not possible to remove the pillars of the building as removing of the pillars of the building would affect 415 flats and further would affect the stability of the entire structure.

Sri Sampath Prabhakar Reddy, learned standing counsel for GHMC appearing for the respondents 2 to 5 would submit that if the petitioner association is directed to give a detailed representation to the impugned notice, the same will be considered and disposed of in accordance with the procedure established by law.

Learned counsel for the petitioner association, while reiterating the submissions earlier stated, endorses the afore-said submissions of the learned standing counsel.

Recording the afore-said submissions, the Writ Petition is disposed of directing the petitioner association to submit a detailed explanation to the notice, dated 18.12.2017, within one week from the date of receipt of a copy of this order; on the petitioner association submitting the same, the 4th respondent-Deputy Commissioner, shall

consider and dispose of the same along with the earlier representations and also the copies of the documents which are submitted by the petitioner association along with earlier representations, dated 07.11.2017, 18.11.2017 & 04.12.2017, by strictly following the procedure established by law. The said exercise shall be completed within two (02) weeks from the date of receipt of a copy of this order and the decision taken thereon shall be communicated to the petitioner association within a week thereafter. Till such exercise is completed, the respondents are directed not to interfere with or demolish the subject property of the petitioner association; the petitioner association also shall not make any new constructions in the subject property and shall maintain absolute *status quo*.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

26.12.2017
Vjl

M.SEETHARAMA MURTI, J