

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.34944 of 2016

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed seeking a Writ of Mandamus declaring the action of the 2nd respondent in issuing final notice, dated 14.10.2016, under Section 636(2) of Hyderabad Corporation Act, 1955, [‘the Act’, for short] and his action in attempting to demolish the petitioner’s subject property on the ground that it is in violation of Municipal Rules despite the fact that he paid penalty in a sum of Rs.50,000/- for 2nd floor *vide* challan, dated, 19.03.2016; and, a sum of Rs.1,50,000/- for 3rd floor *vide* challan, dated 16.06.2016, for regularisation, as illegal, arbitrary and violative of the Articles of the Constitution of India.

Though learned counsel for the petitioner and the learned standing counsel appearing for the respondents 2 to 5 are in agreement that in matters of similar nature, this Court is directing the parties to treat the impugned notice as a show cause notice and permitting the petitioner to submit an explanation, it is a matter of record that the petitioner’s explanation earlier submitted to the notice under Section 452 of the Act was already rejected. Be that as it may.

Having regard to the submissions & the facts and circumstances of the case, the rejection proceeding, if any, is hereby set aside; and, the petitioner is directed to submit, within three weeks from the date of receipt of a copy of this order, an explanation to the impugned final notice, by treating it as a show cause notice. Further, the 2nd respondent is directed to consider and dispose of the same, within eight weeks from the date of receipt of such explanation from the petitioner, however, in strict accordance with the procedure established by

law, and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that till a considered decision, as directed now, is taken by the 2nd respondent, the petitioner shall not proceed with further constructions and shall maintain absolute *status quo*. It is also made clear that if the subject constructions made by the petitioner are within the parameters of the building regulations, the orders issued by the Government for regularisation of the building may also be considered for confirmation by the 2nd respondent while passing appropriate orders.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

11.07.2018
Vjl



M.SEETHARAMA MURTI, J