

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.31925 of 2018

ORDER:

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

“For the reasons stated in the accompanying affidavit, the petitioner prays that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents, particularly the 5th respondent in attempting to demolish the school building existing in R.S.No.127/1 of Brahmanagudem Village, Chagallu Mandal, West Godavari District by rejecting the petitioner’s application for regularisation of the constructions made in an unauthorised layout vide orders dated: 14-08-2018 as illegal, arbitrary, malafide, without proper application of mind, besides violation of purpose and purport of G.O.Ms.No.12, dated 8-2-2016 and against the principles of natural justice and against the Constitutional guarantees and to consequently, direct the respondents not to interfere with the building in which school is being run in any manner including the demolition by setting aside the said rejection order in the interest of justice and to pass such other, further order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

2. I have heard the submissions of Sri *K.Jyothi Prasad*, learned counsel appearing for the petitioner, of the learned Government Pleader for Panchayat Raj & Rural Development (A.P.), appearing for the respondents 1 to 4, and of Sri *K.K.Durga Prasad*, learned Standing Counsel for 5th respondent Gram Panchayat. I have perused the material record.

3. By the proceeding, which is impugned in this writ petition, the request for regularisation of the building constructed in an unauthorised layout is rejected by the Panchayat Secretary of the 5th respondent Gram Panchayat on the ground that the

unauthorised layout is not abutting the Public Road and there is no possibility to regularise as per the terms of G.O.Ms.No.12, Panchayat Raj & Rural Development (PTS.III) Department, dated 08.02.2016. It is not in dispute that in the building purchased by the petitioner, a school is being run and that in W.P.No.30221 of 2018, this Court granted orders of *status quo* obtaining as on 24.08.2018 in regard to the school that is being run in the subject property. However, the impugned proceeding is being challenged on the ground that the proceeding does not mention any reasons in support of the rejection of the regularisation request of the petitioner. In that view of the matter and having regard to the submissions of the learned counsel for the petitioner and the learned Standing Counsel for the 5th respondent, this Court is of the considered view that the impugned order may be set aside with a direction to the 5th respondent to pass orders afresh and with reasons, however, after affording an opportunity of hearing to the writ petitioner.

4. Accordingly, the Writ Petition is disposed of setting aside the impugned proceeding, dated 14.08.2018, of the 5th respondent and directing the 5th respondent to pass orders, afresh, with reasons, however, after affording an opportunity of hearing to the petitioner and in strict accordance with procedure established by law.

There shall be no order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE M. SEETHARAMA MURTI

Date: 6th September, 2018
Note: Issue C.C. by Monday.
(B/o.)
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