

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition no.41312 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief/s:

"... to issue writ, order or direction, more particularly one in the nature of the Writ of Mandamus declaring the action of the 2nd respondent in issuing impugned notice vide bearing No.Rc.No.G1/263/34/2018 dated 07.09.2018 for demolition of petitioners leased shops as illegal, arbitrary in nature, violative of principles of nature justice, in contrary to the provisions of Telangana Municipalities Act, 1965 and Rules framed thereunder and offends Article 14 and 21 of Constitution of India and consequently, direct the 2nd respondent not to demolish the petitioners respective leased and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case"

I have heard the submissions of the learned counsel for the petitioners and of the learned standing counsel for Madhira Municipality appearing for 2nd respondent. I have perused the material record.

The case of the petitioners is this: - "There are six shops in Madhira Municipal complex. They were allotted to the petitioners in the year 2012 by the then Madhira Nagarapanchayat. Since the allotment of the shops, the petitioners are eking out their livelihoods by running their respective businesses in the shops. They are paying taxes to the Madhira Nagarapanchayat. After the expiry of the initial lease periods, the lease periods are extended. The petitioners are thus leaseholders of the shops in the premises of Madhira Municipal complex, opposite to LIC complex, Madhira town. While so, the impugned notices were issued

requiring the petitioners to vacate their respective shops *inter alia* stating that the shops are very old and are in a dilapidated condition and that R & B authorities have inspected & issued a certificate certifying the dilapidated condition of the shops and that if demolition of the subject building is not undertaken, the constructions are likely to cause loss of human life and danger to the public. By the said notices, the petitioners are directed to vacate their respective shops within thirty days. The contemplated action is one undertaken without following the procedure established by law.'

Learned standing counsel appearing for 2nd respondent would submit as follows: 'Based on the inspection report of R & B authorities with regard to the condition of the building and as the building is an old building in a dilapidated condition, the notices for vacating the shops were issued to the petitioners. There is every likelihood of the building collapsing and resulting in loss of human life and causing danger to the public. The lease periods had also expired.'

In reply, learned counsel for the petitioner submits that in the impugned notices, there is no reference to the date of inspection and that a copy of the report, if any, of the R & B authorities is also not furnished to the petitioners.

Having regard to the facts & submissions, this Court is of the considered view that this writ petition can be disposed of with appropriate directions.

Accordingly, Writ Petition is disposed of directing the petitioners to submit a representation/s to the 2nd respondent to furnish a copy of the report of the R & B department; and, on the petitioners making such representation/s, a copy of the said report shall be supplied to the petitioners within three days thereafter. Thereafter, the petitioners shall submit their explanations, if any, to the notices, which are impugned in the writ petition, within two weeks. On receipt of such explanation/s from the petitioners, the 2nd respondent shall consider and dispose of the same in strict accordance with the procedure established by law, within three weeks, and communicate the decision taken thereon to the petitioners within a week thereafter. Till the completion of the aforesaid exercise, as directed, the respondents shall not interfere with the subject shops of the petitioners in any manner and both the parties shall maintain absolute *status quo* as on today.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

22.11.2018
Vjl