

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41764 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed requesting to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the action of the 2nd respondent in trying to demolish the existing structures constructed in premises bearing D.No.35-36-1, Sajjapuram Village, Tanuku Municipality, Tanuku Mandal, West Godavari, in accordance with permit No.1081/0035/B/TMC/RR/2018, dated 29.03.2018, as illegal & arbitrary, and further direct the respondents not to demolish the structures in the said property without following the procedure established by law.

2. I have heard the submissions of learned counsel for the petitioner and learned standing counsel appearing for the 2nd respondent.

3. Learned counsel for the petitioner submits that the petitioner obtained building permit and an approved plan for making constructions *vide* afore-stated permit, dated 29.03.2018, and proceeded to make constructions in the subject property in accordance with the building permit and the approved plan; that the constructions reached the stage of laying of the slab of the first floor; that, while so, the officials of the 2nd respondent Corporation came to the subject

property and tried to demolish the structures alleging that the constructions are being made in deviation of the building permit and the approved plan; that before making such attempts, no notice has been issued; and, hence, the present writ petition is filed.

4. Learned Standing Counsel appearing for the 2nd respondent submits as follows:

‘Depending upon the width of the road, a person making constructions in accordance with the building permit has to surrender a portion of the property for intended road widening. In the case on hand, the petitioner gave an undertaking affidavit on a stamp paper of the required value agreeing to surrender 7.5 feet width of her property for proposed road widening. Having given such an undertaking, the petitioner laid a pillar in the surrendered portion, which is intended for road widening, and therefore, it has become necessary to initiate action and that the 2nd respondent and its officials will follow the due procedure established by law.’

4.1 Learned Standing Counsel further submits that till the procedure is initiated and the necessary action is completed, the petitioner may be directed not to make any further constructions in the interests of justice.

5. Having regard to the facts and submissions, the writ petition is disposed of directing the 2nd respondent not to either interfere with in any manner or demolish any structures

in the subject property of the petitioner, except by following the procedure established by law. However, having regard to the nature of the matter, the 2nd respondent is also directed to initiate necessary action by issuing the necessary notice as per the procedure, within a week from the date of receipt of a copy of this order, giving an opportunity to the petitioner to give her explanation/representation, if any, within a reasonable time of two weeks, and dispose of the same by passing appropriate orders in strict accordance with the procedure established by law within a period of two weeks thereafter and complete the entire necessary exercise accordingly within five weeks from the date of receipt of a copy of this order. Till such time, the petitioner shall maintain absolute *status quo* without making any further constructions in the subject property. It is made clear that if there is any delay on the part of the 2nd respondent in initiating the necessary action and completing the necessary exercise in the above regard, the petitioner shall be at liberty to proceed with further construction after the afore-said time frame.

There shall be no order as to costs.

As a sequel, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed.

M.SEETHARAMA MURTI, J

20.11.2018

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