

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41875 OF 2018

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 or writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent authorities in trying to demolish the property of Sri Seetharama Temple, Palliveedhi, Vizianagaram being run by the petitioner Sangam without following due process of law, as arbitrary, illegal, null and void, against norms of public policy and principles of natural justice and violative of fundamental rights guaranteed under Constitution of India and consequently to direct the respondent authorities not to interfere with the property of Sri Seetharam Temple, Palliveedhi, Vizianagaram without following due process of law”

2. I have heard the submissions of the learned counsel for the petitioner; of learned Government Pleader for Municipal Administration and Urban Development (AP), appearing for 1st respondent; and of Sri Nimmagadda Venkateswarlu, learned Standing Counsel for the Vizianagaram Municipality, appearing for the 2nd respondent. I have perused the material record.

3. The case of the petitioner Society is this:

It is a registered Society/Sangham. It is constituted for looking after the welfare and managing the Seetarama Temple in the subject property, which is constructed more than 100 years back. While so, the 2nd respondent Municipality issued proceedings in Roc.No.2207/2015-G2, dated .02.2017, informing the management of the temple that 158 sq.yards of site is required for road widening. The petitioner, after consultations with the

members of the Sangham, gave a consent letter, dated 22.03.2017, stating that the petitioner Society would exchange the temple land for a value of Rs.17,00,000/- subject to the conditions that the Municipality shall accord permission for construction of a shop and shall not carry out the road widening work till the payment of compensation/land value and according of permission for construction of the shop. After issuance of the consent letter, the public and members of Sangham approached the petitioner stating that the temple building is a heritage building and therefore, the same shall not be allowed to be demolished by the 2nd respondent Municipality. However, without complying with the conditions in the consent letter, when an attempt is made to demolish the temple, the present writ petition is filed.'

4. Learned Standing Counsel appearing for the 2nd respondent Municipality also invited the attention of this Court to the consent letter, dated 22.03.2017, and submitted that the municipality is not going to either touch or interfere with the temple building, which is a sufficiently old building, and that the municipality is only intending to remove the encroachments in the land around the temple building, which are unauthorized encroachments, and that since the land is a Government land, no compensation need be paid and that the municipality is willing to adopt the TDR procedure, if necessary, instead of giving value of the land and that the municipality will give TDRs in exchange of the value of Rs.17,00,000/- and that it will also consider appropriately, the consent letter with the conditions therein and will follow the procedure established by law before further action is taken in the matter.

5. Having regard to the submissions, the Writ Petition is disposed of directing the municipality to consider the consent letter of the petitioner with the conditions stated therein and follow the procedure established by law before taking any activity of road widening in the subject premises of the subject temple. While following the procedure established by law in the matter of road widening, as directed supra, the respondents shall give an opportunity of personal hearing to the petitioner and any persons from the public, who are interested in making submissions, and who may come forward to do so. Till the said exercise is completed, no coercive action including demolition shall be undertaken by the respondents in respect of the subject property.

There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE M.SEETHARAMA MURTI

Date: 20.11.2018
AMD

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI



WRIT PETITION No.41875 OF 2018

DATE: 20.11.2018

AMD