

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.42146 OF 2018

ORDER:

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

“to issue a Writ of Mandamus or any other appropriate Writ or Writs, order or orders declaring the action of respondents more particularly, respondent No.3 in issuing the Notice dated 05.11.2018 bearing Notice No.08/DIR/EV&DM/E/GHMC/2018, without considering the application dated 27.02.2015 pending for regularization of land admeasuring 246.3 square yards in premises bearing No.8-2-293/82/L/312/A, situated at Road No.12, MLA’s colony, Banjara Hills, Hyderabad, under G.O.Ms.No.59, Revenue Department dated 30.12.2014, as arbitrary, unlawful, against to Law and thereby set aside the same and consequently set aside the notice dated 25.10.2018 in proceedings No.5/DIR/EV & DMT-5/5/GHMC/2018 and pass such other order or orders as are deemed fit and proper in the circumstances of the case and in the interest of justice”.

2. I have heard the submissions of Sri Resu Mahender Reddy learned counsel appearing for the petitioners; of learned Standing Counsel for GHMC, appearing for respondents 2 and 3; and, of learned Government Pleader for Municipal Administration & Urban Development, appearing for the first respondent. I have perused the material record.

3. This Writ Petition is filed challenging the show cause notice, however, after having submitted a representation, dated 12.11.2018, to the authority, who has issued the said notice. Apart from the contention related to the competency of the officer who issued the impugned notice, the fact of the matter is that the

authority concerned is yet to take a decision on the representation submitted by the petitioners in response to the notice, which is impugned.

4. Learned counsel for the petitioners brings to the notice of the Court the contents of the letter, dated 01.11.2016, addressed to the Tahasildar, Shaikpet mandal, wherein a request was made for consideration of the application for regularization of an extent of 239.24 square yards on payment of 25% of basic register value, that is, 25% of Rs.1,07,65,875/-, on the ground that the extent involved is less than 250 square yards.

5. Both the learned counsel for the petitioners and the learned Standing Counsel placed reliance on G.O.Ms.No.59, dated 30.12.2014. Learned Standing Counsel invited attention of this Court to terms 2 (iv) and (vi) of the said GO and contended as follows: 'When the subject land is admittedly a Government land and when it is an extension or a land appurtenant to a dwelling unit on the land already owned or assigned, the regularization shall be only on payment of the entire basic value, but not on payment of a part of it, as being claimed by the petitioners. The letter, dated 01.11.2016, was issued to the Tahasildar; but, the officers of the Revenue Department are not made parties to this Writ Petition. This Writ Petition is premature as no order on the representation to the petitioners has yet been passed by the competent authority. As per the provision of Section 119 of the Greater Hyderabad Municipal Corporation Act, 1955, the officer who issued the notice is a competent officer.'

6. Having regard to the submissions, the Writ Petition is disposed of directing the third respondent to consider and dispose of, within four weeks from the date of receipt of a copy of this order, the representation, dated 12.11.2018, of the petitioners, in strict accordance with the procedure established by law, however, after affording an opportunity of personal hearing to the petitioners. It is needless to state that a copy of the decision taken thereon shall be furnished to the petitioners, within a week thereafter. It is made clear that at the personal hearing, the Writ petitioners are at liberty to raise all the objections, which the law permits. Till the above said exercise is completed, the respondents are directed not to take any coercive action in respect of the subject property, including demolition.

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: 22.11.2018

Note:

Issue CC by 26.11.2018

B/o.

vjl/vhb

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DATE: 22.11.2018

vhb