

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.45022 of 2017

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 that the petitioner herein prays that this Hon’ble court may be pleased to pass any appropriate writ, order or direction more particularly one in the nature Writ of Mandamus declaring the action of the respondents in rejecting the petitioner application applied for Building Penalisation Scheme by an order dated 13-12-2017 is arbitrary and violation of Principles of Natural Justice and Art. 21 of the Constitution of India and consequentially direct the respondents to regularize the Building permission applied under application No:BPS/SRI/3/3214715 for the property in S No: 967 part at one way traffic road opposite to Forest Office, Balaga Ward, Srikakulam Municipality on receiving the penalization amount and to pass such other 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 *Tarlada Rajasekhar Rao*, learned counsel appearing for the petitioner, Sri *Nimmagadda Venkateswarlu*, learned Standing Counsel, appearing for the respondents 1 & 2 Municipal Corporation, and of the learned Government Pleader for Municipal Administration and Urban Development appearing for the 3rd respondent. I have perused the material record.

3. Learned counsel for the petitioner would submit that by the impugned order, 13.12.2017, the Building Penalization Scheme application of the petitioner was rejected without assigning any reasons and by *inter alia* stating that there is shortfall of

documents, which the petitioner is required to submit, and that the petitioner did not pay the penalization charges. He would also submit that the petitioner is prepared to pay the penalization charges and that the petitioner is not informed as to what are the shortfalls in supplying the documents and that if the petitioner is given an opportunity to supply the said documents, if any, required in the matter, the petitioner is prepared to supply the said documents. Therefore, he seeks for setting aside the impugned rejection order, dated 13.12.2017.

4. Learned Standing Counsel appearing for the respondents 1 & 2 Municipal Corporation, on instructions, would submit that after 31.12.2017, the Building Penalization Scheme has come to an end and no further applications for regularization under the said scheme are entertainable and that there is a provision for appeal under Rule 13 of G.O.Ms.No.128, dated 22.05.2015, and that, therefore, the writ petition is not maintainable.

5. Learned counsel for the petitioner would submit that the petitioner may be given liberty to prefer an appeal before the appellate forum and till such time, the interests of the petitioner may be protected.

6. Recording the submissions, the Writ Petition is disposed of reserving liberty to the petitioner to prefer an appeal as per terms of the afore-stated G.O. within a period of three (03) weeks from the date of receipt of a copy of this order. Till such time, the respondent Municipal Corporation authorities are directed not to take any coercive action against the subject property of the petitioner.

Pending miscellaneous petitions, if any, shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

Date: 3rd January, 2018

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