

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.17 of 2018

ORDER:

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

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon’ble Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents sought to demolish the flat T1 which was purchased by me in D.No.9-565 situated at survey No.138/2 of Chinagadhili Village, Ward No.6 of S.C. S.T. Colon, Visalakshinagar, Visakhapatnam pursuant to the Notice in U.C.NO.11/2017/TPS dated 15-12-2017 is illegal, arbitrary and in contravention of the provisions of the GHMC Act under the Rules made there under. Consequently direct the respondents not to take any coercive steps pursuant to the notice U.C.No.11/2017-TPS dated 15-12-2017 and pass such other and further orders to meet the ends of justice.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *N.Subba Rao*, learned counsel appearing for the petitioner, and of Sri *S.Lakshminarayana Reddy*, learned Standing Counsel for the Greater Visakhapatnam Municipal Corporation, representing the respondents 1 to 3. I have perused the material record.

3. Learned counsel for the petitioner would submit that when a notice, dated 22.11.2017, was issued under Sections 452 and 461 of the Hyderabad Municipal Corporation Act, 1955, the petitioner submitted an explanation, dated 30.11.2017, but the impugned notice, dated 15.12.2017, is issued stating that no explanation is given to the notice, dated 22.11.2017, and that by the impugned notice, the petitioner was directed to remove the unauthorised portion in the subject property within 24 hours from the date of

receipt of the notice and that it is also stated in the said notice that on failure of the petitioner to remove the same, the respondents would proceed in accordance with procedure established by law.

4. Learned Standing Counsel appearing for the respondents 1 to 3, on instructions, would submit that the petitioner is a purchaser of a flat and that the construction was made in deviation of building permit and that even according to the contents of the explanation of the petitioner, there are deviations and that the petitioner has not submitted any application for regularisation in accordance with procedure and that after the construction is made, the question of submitting an application for regularisation would not arise for consideration and that the present explanation of the petitioner was received after the impugned notice, dated 15.12.2017, was issued.

5. Having regard to the submissions, the Writ Petition is allowed and the impugned notice, dated 15.12.2017, is set aside directing the 2nd respondent to consider and dispose of the explanation, dated 30.11.2017, of the petitioner within a period of four (04) weeks from the date of receipt of a copy of this order, however, in strict accordance with procedure established by law and communicate the decision taken thereon to the petitioner within a week thereafter. It is made clear that till such exercise is completed, no coercive action shall be taken against the subject property of the petitioner.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

Date: 2nd January, 2018
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