

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.12372 of 2015 and M.P. No.1 of 2015

1 Munilal Poolchandji

2 Shanthi Bai

3 Dinesh Kumar

4 Mahaveer Kumar

Petitioners

Vs.

1 Chennai Metropolitan
Development Authority
represented by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

2 Corporation of Chennai
represented by its Commissioner
Ripon Buildings
Chennai 600 003

3 Government of Tamil Nadu
represented by its
Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and demolition of the building put up at Old No.108, New No.113, Audiappa Naicken Street, Sowcarpet, Chennai 600 079 till the petitioners' appeal petitioner submitted under Section 80-A of the Town and Country Planning Act to the third respondent is disposed of.

For petitioners Mr. R. Mohan

For R1 Mr. K. Raja Shrinivas, Standing Counsel

For R2 Ms. Karthikaa Ashok, Standing Counsel

For R3 Mr. N. Sakthivel, Govt. Advocate

ORDER

(Order of the Court was made SATISH K. AGNIHOTRI, J.)

Mr. K. Raja Shrinivas, learned Standing Counsel, Ms. Kaarthika Ashok, learned Standing Counsel and Mr. N. Sakthivel, learned Government Advocate, accept notice for respondents 1,2 and 3 respectively. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed seeking a writ of mandamus forbearing the respondents 1 and 2 or anybody on their behalf from initiating any coercive action of locking and sealing and demolition of the building put up at Old No.108, New No.113, Audiappa Naicken Street, Sowcarpet, Chennai 600 079, till the disposal of the petitioners' appeal submitted under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 From a perusal of the records, it transpires that the first respondent has issued locking, sealing and demolition notice dated 25.03.2015 under Sections 56 and 57 read with Section 85 of the Act against the petitioners. Thereagainst, the petitioners have already filed an appeal under Section 80-A of the Act before the third respondent-Government on 30.03.2015, which is still pending consideration. It is further seen that along with the said appeal, the petitioners have also preferred an application for interim stay, in view of the provisions of Section 80-A(3) of the Act.

4 It was observed by this Court in many a case that if there is an application for interim relief, the authorities are expected to consider the application for interim relief, within a period of two weeks. However, in the case on hand, despite lapse of three weeks from the date of filing of the application for interim relief, no order has been passed in the said petition. Therefore, without going into the merits of the case, we are of the considered view that if an appeal is filed along with the application for interim relief, the officers are well advised to consider the application for interim relief at the earliest, preferably, within a period of two weeks, to avoid further complications.

5 Accordingly, we direct the third respondent-Government to consider the petitioners' application for interim relief as early as possible, preferably, within a period of two weeks from the date of receipt of a copy of this order and also to consider and pass orders on the petitioners' appeal, on its own merits and in accordance with law, within the statutory period prescribed under the provisions of law. It is made clear that for a period of two weeks, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties.

6 The writ petition stands disposed of with the above direction and observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 2 The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 3 The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009

+ 1 cc to Mr.K. Rajashrinivas, Advocate SR.22721
+ 1 cc to Mr.R. Mohan, Advocate SR.22410
+ 1 cc Government Pleader Sr.22919
+ 1 cc to Mrs. Karthika Ashok, Advocate Sr.22676

GJ(CO)
EU 19.05.2015

W.P. No.12372 of 2015