

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2015

CORAM:

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

W.P. No.12503 of 2015 and M.P. No.1 of 2015

1 Bharathi Devi

2 Sushila Devi

3 Mahaveer Kumar

4 Gouthamchand

Petitioners

Vs.

1 The Secretary to Government
Housing and Urban Development Department
Fort St. George Chennai 600 009

2 The Member Secretary
Chennai Metropolitan Development Authority
1 Gandhi Irwin Road
Egmore, Chennai 600 008

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the second respondent not to lock and seal the premises or take steps for de-occupation in New Nos.19 and 12 (Old Nos.7 and 8), Ashtapujam Road, Choolaimedu, Chennai or take any other punitive measures, pending final determination of the revision petition dated 06.04.2015 submitted before the first respondent by the petitioner.

For petitioner Mr. V. Vijay Shankar

For R1 Mr. N. Sakthivel

Government Advocate

For R2 Mr. K. Raja Shrinivas

Standing Counsel

ORDER

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

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Mr. K. Raja Shrinivas, learned Standing Counsel, accepts notice for the second respondent. 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 Feeling aggrieved by G.O. (3D) No.10, Housing and Urban Development (UD-V) Department dated 25.03.2015 issued by the first respondent-Government rejecting the petitioner's appeal preferred under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), the petitioner has preferred a revision under Section 80-A of the Act before the first respondent-Government, with an application for interim relief, on 06.04.2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on 17.04.2015, seeking the relief as stated above.

3 At this stage, it is better to point out certain provisions of law under which a appeal/revision is to be decided. The second proviso to Section 80-A of the Act prescribes that the application for revision/appeal filed under Section 80-A of the Act shall be disposed of by the Government within 90 days from the date of receipt of the application. Grant of 90 days time to dispose of the appeal/revision is certainly with some object, perhaps, to obtain views of the authorities and also to provide an opportunity of hearing to all the parties concerned. In that process, 90 days time may be required to render justice between the parties.

4 Now, the petitioner has come up with the instant writ petition in 11 days from the date of preferring the revision, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, as, the Appellate Authority has not been given an opportunity to take action, within the reasonable time. Thus, this writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

5 We deprecate this practice of rushing to the Writ Court invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, without waiting for a decision within the prescribed statutory period. This practice is tantamount to abuse of judicial process.

6 It is also brought to our notice that an application for interim relief has also been filed under Section 80-A(3) of the Act. We expect that the authorities will consider the application for interim relief, at the earliest, preferably within a period of two weeks, whenever an application for interim relief is filed along with the revision and that the revision also will be disposed of in accordance with law and on its own merits, within the statutory period prescribed under the provisions of law. However, status quo, in respect of the property in question, as obtained today, shall be maintained for a period of two weeks from today.

7 The writ petition stands disposed of, with the above observations. No costs. Connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(Crl.Side)

True Copy

Sub-Assistant Registrar

To

- 1 The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009
 - 2 The Member Secretary
Chennai Metropolitan Development Authority
1 Gandhi Irwin Road
Egmore, Chennai 600 008
- + 1 cc to Mr.K.Raja Shrinivas, Advocate SR 23190
+ 1 cc to M/s.V.Vijayshankar, Advocate 23564
+ 1 cc to Govt.Pleader SR 23242

rsi(co)

prk11/5

W.P. No.12503 of 2015

सत्यमेव जयते

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