

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

CORAM:

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

W.P. No.12949 of 2015
and
M.P. No.1 of 2015

Ferdous Estates Private Limited
represented by its Director
Mr. M.M. Haneefa
Marina Square A -Block, V Floor
No.26-27, Santhome High Road
Mylapore, Chennai 600 004

... Petitioner

Vs.

1. Chennai Metropolitan Development Authority
represented by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
2. The State of Tamil Nadu
represented by the Secretary
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 certiorari calling for the records of the first respondent authority in the impugned notice of de-occupancy dated 21.04.2015 in its proceedings in Lr. No.EC/S-1/19237/2014 insofar as the petitioner, calling upon the occupants of the petitioner's premises at No.26-27, Santhome High Road, Mylapore, Chennai 600 004, to vacate the premises and quash the same.

For petitioner : Mr. B. Kumar, Senior Counsel
for M/s. A.J. Jawad

For R1 : Mr. K. Raja Shrinivas
Standing Counsel

For R2 : Mr. N. Sakthivel
Government Advocate

Mr. T. Mohan
for M/s. Sai, Bharath and Ilan
for the petitioner in
connected WP No.4539/2015

ORDER

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

Mr. K. Raja Shrinivas, learned Standing Counsel, accepts notice for the first respondent. Mr. N. Sakthivel, learned Government Advocate, learned Government Advocate, 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. This writ petition is filed challenging the de-occupation notice dated 21.04.2015 issued by the first respondent under Section 56(2)(iii) of the Town and Country Planning Act, 1971 (for short "the Act") insofar as it relates to the petitioner, thereby, calling upon it to vacate the premises in question.

3. Today, when the matter is taken up for hearing, the learned Senior Counsel appearing for the petitioner submits that he confines the relief to the extent of directing the second respondent-Government to consider and pass orders on the petitioner's appeal dated 10.04.2015 filed under Section 113-A(6) of the Act, through one of its Directors, viz., Mrs.Ferdous, challenging the order dated 13.03.2015, whereby and whereunder, the petitioner's regularisation application is rejected. It is further submitted by the learned Senior Counsel that along with the said appeal, an application for interim relief has also been filed by the petitioner and both the said appeal and the interim application relief are pending consideration.

4. Mr. T. Mohan, learned counsel representing M/s. Sai, Bharath and Ilan, learned counsel for the petitioner in the connected writ petition, being W.P. No.4539 of 2015, who made a representation and at whose instance, the entire exercise was initiated by the authorities, submits that under this appeal, the appellant before the authorities cannot again raise an issue in respect of other properties, inasmuch as commercial activities are going on sans proper approval.

5. We are not inclined to go into the merits of the case. However, we leave it to the appellate authority to consider the petitioner's aforesaid appeal 10.04.2015 on the question of maintainability and on merits as well, within the period as prescribed under the statute.

6. Since it has been brought to our notice that an application for interim relief has also been filed along with the appeal, we expect that the authorities will consider the application for interim relief, at the earliest, preferably within a period of two weeks. It is made clear that status quo, in respect of the property in question, as obtained today, shall be maintained for a period of two weeks. It is further made clear that if a representation is made by the petitioner in W.P. No.4539 of 2015, the said representation also may be examined by the appellate authority in the light of the judgment of the Supreme Court, as pointed out by the learned counsel for the petitioner in W.P. No.4539 of 2015.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

cad

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To

1. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
2. The Secretary
State of Tamil Nadu
Housing and Urban Development Department
Fort St. George
Chennai 600 009

+2cc's to Mr.A.J.Jawad, Advocate, S.R.No.23300 & 23444
+2cc's to M/s.Sai, Bharath and Ilan, Advocate, S.R.No.23419, 23491
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.23503

W.P. No.12949 of 2015
and
M.P. No.1 of 2015

CNR(CO)
CA(29/04/2015)



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