

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2015

CORAM:

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

W.P. No.13028 of 2015 and M.P. Nos.1 & 2 of 2015

R.S. Rama Sarma

Secretary

Jains Eiffel Garden Flat Owners' Welfare Association

(Regn. No.192 of 2004)

Old No.89 and 90, New No.167-A, Arcot Road

Vadapalani

Chennai 600 026

Petitioner

Vs.

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

2 The Secretary
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George - 600 009

3 Jain Housing and Construction Ltd.
82, High Gates
VIII and IX Floors
Santhome High Road
R.A. Puram, Chennai 600 028
represented by its Executive Director
Mr. Sandeep Mehta

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the second respondent to consider and dispose of the appeal filed by the petitioner association under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971, wherein, the order passed by the first respondent bearing No.EC3/11096/2014 dated 08.12.2014, is under challenge, within a stipulated period.

For petitioner Mr. T.T. Ravichandran

For R1 Mr. K. Raja Shrinivas, Standing Counsel

For R2 Mr. P.S. Sivashanmugasundaram

Special Government Pleader

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. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the second respondent. With the consent of the learned Standing Counsel appearing for the first respondent and the learned Special Government Pleader appearing for the second respondent, 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 directing the second respondent to consider and dispose of the appeal filed by the petitioner association 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 08.12.2015 under Sections 56 and 57 read with Section 85 of the Act against the petitioner. Thereagainst, the petitioner has already filed an appeal under Section 80-A of the Act before the second respondent-Government on 27.01.2015, which is still pending consideration. It is stated by the learned counsel for the petitioner that along with the said appeal, the petitioner has 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 nearly three months 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 second respondent-Government to consider the petitioners' application for interim relief as early as possible, if it has been filed as claimed by the petitioner, 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 Petitions are 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 Secretary
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George - 600 009

+ 1 cc to Mr.T.T.Ravichandran, Advocate SR.24325
+ 1 cc to Mr.K. Raja Srinivas, Advocate SR.23911
+ 1 cc Government Pleader Sr.23969

CNR(CO)
EU 19.05.2015

W.P. No.13028 of 2015

सत्यमेव जयते
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