

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2015

CORAM:

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

W.P. No.13747 of 2015 and M.P. No.1 of 2015

S. Prema

Petitioner

Vs.

- 1 The State of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Secretariat, Fort St. George, Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
No.1, Gandhi Irwin Road, Egmore, Chennai 600 008
- 3 The Principal Secretary and Commissioner
Corporation of Chennai
Ripon Building, Chennai 600 003
- 4 The Executive Engineer
Town Planning
Regional Office - South
115, Dr. Muthulakshmi Salai
Adyar, Chennai 600 020
- 5 The Assistant Executive Engineer
Zone - 14, Division - 43, Ward - 191
Corporation of Chennai
No.1 Thulugananthamman Koil Street
Pallikaranai, Chennai 600 100

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 3 to 5 forbearing them from locking and sealing the petitioner's house premises, Door No.1/842B, Jansi Rani Street, Lakshmi Nagar, Chennai 600 100 in pursuance of the notice Che.Ma./Pa.Aa.43 Na. Ka.No.114/2014 dated 22.04.2015 issued by the fourth respondent, till the disposal of the petitioner's appeal dated 22.04.2015 filed under

Section 79 of the Tamil Nadu Town and Country Planning Act, 1971.

For petitioner Mr. P. Thiagarajan

For R1 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R2 Mr. K. Raja Shrinivas
Standing Counsel

For RR 3-5 Ms. Karthikaa Ashok
Standing Counsel

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Shrinivas, learned Standing Counsel, accepts notice for the second respondent. Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for respondents 3 to 5. 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 directing the respondents 3 to 5 forbearing them from locking and sealing the petitioner's house premises, Door No.1/842B, Jansi Rani Street, Lakshmi Nagar, Chennai 600 100 in pursuance of the notice Che.Ma./Pa.Aa.43 Na. Ka.No.114/2014 dated 22.04.2015 issued by the fourth respondent, till the disposal of the petitioner's appeal dated 22.04.2015 filed under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"). However, there is nothing on material to show that the petitioner's appeal dated 22.04.2015 is pending consideration. Instead, the appeal dated 24.12.2014 filed by the petitioner is enclosed in the typed set of papers.

3 According to the learned counsel for the petitioner, the fourth respondent has passed an order dated 23.10.2014, whereby and whereunder, the planning permission application submitted by the petitioner has been returned un-considered on the ground that the petitioner had not rectified certain defects. Thereagainst, the petitioner has filed an appeal under Section 79 of the Act before the first respondent-Government on 24.12.2014, which is still pending consideration. Along with the said appeal, the petitioner has also preferred an application for interim stay. It would suffice if the aforestated appeal and stay petitions are directed to be disposed of within a time frame.

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 four 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 first respondent-Government to consider the petitioner's 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 petitioner's appeal, on its own merits and in accordance with law, within the statutory period prescribed under the provisions of law, if the appeal and stay petition are pending consideration, as claimed by the petitioner. 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//

सत्यमेव जयते
Sub Assistant Registrar

cad
To

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1 cc to Mr.P. Thiagarajan ,Advocate, SR.No.24442
1 cc to Mr. K. Raja Shrinivas,Advocate, SR.No.24583
1 cc to Government Pleader,Sr.No24730
1 cc to Mr. A.Karthikaa Ashok,Advocate, SR.No.24317

W.P. No.13747 of 2015

tej(co)
pmk.19.5.2015



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