

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2015

CORAM:

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

W.P. No.17002 of 2015
and
M.P. No.1 of 2015

Sivakami

...Petitioner

Vs.

- 1 Corporation of Chennai
represented by its Commissioner
Ripon Buildings
Chennai 600 003
- 2 The Executive Engineer, Zone X
Corporation of Chennai
No.117, N.S.K. Salai
Kodambakkam, Chennai 600 024
- 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 from initiating any coercive action of locking and sealing and demolition with regard to the building put up at Plot No.21, Thanikachalam Street, Devaraja Nagar, Saligramam, Chennai - 93, pending determination of the appeal petition submitted by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 29.05.2015 with the third respondent.

For petitioner : Mr. D.S. Rajasekaran
For RR 1 & 2 : Mr. A. Nagarajan, Standing Counsel
For R3 : Mr. N. Sakthivel, Government Advocate

ORDER

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

Mr. A. Nagarajan, learned Standing Counsel, accepts notice for respondents 1 and 2. Mr. N. Sakthivel, learned Government Advocate, accepts notice for the third 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 seeking a writ of mandamus forbearing the respondents 1 and 2 from initiating any coercive action of locking and sealing and demolition with regard to the building put up at Plot No.21, Thanikachalam Street, Devaraja Nagar, Saligramam, Chennai - 93, pending determination of the appeal petition dated 29.05.2015 filed by the petitioner under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") before the third respondent.

3 From a perusal of the records, it transpires that the second respondent has issued locking, sealing and demolition notice dated 28.05.2015 against the petitioner under Sections 56 and 57 read with Section 85 of the Act. Thereagainst, the petitioner has already filed an appeal under Section 80-A of the Act before the third respondent-Government on 29.05.2015 challenging the aforesaid notice dated 28.05.2015, which is pending consideration. It is further seen 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 two 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 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 the petitioner's appeal within the statutory period prescribed under the provisions of law, on its own merits and in accordance with 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/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Commissioner
Corporation of Chennai
Ripon Buildings, Chennai 600 003
- 2 The Executive Engineer, Zone X
Corporation of Chennai
No.117, N.S.K. Salai
Kodambakkam, Chennai 600 024
- 3 The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George, Chennai 600 009

- 1 CC to Mr. A. Nagarajan, Advocate SR.No.29423
1 CC to the Government Pleader, SR.No. 29388

W.P. No.17002 of 2015

AK (CO)
PSI (24.06.2015)