

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 4.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. Nos.17455 and 23607 of 2015

P.Jayanthi ... petitioner in both cases

versus

- 1 The State of Tamil Nadu
Rep. by its Secretary Urban and Housing
Development Department Fort St. George
Chennai-9.
- 2 The Chennai Corporation
Rep. by its Commissioner Rippon Building
Chennai-3.
- 3 The Executive Engineer
Enforcement-Regional Centre Central
Regional Office Corporation of Chennai 2nd
Cross Street East Pulla Avenue Shenoy
Nagar Chennai-30. ... respondents in both cases

W.P.No.17455 of 2015 filed praying for a Writ of Mandamus forbearing the respondents 2 and 3 and their subordinates from any manner interfering or sealing or locking the premises more particularly described in the writ petition till the disposal of the Appeal Petition No.11729 of 2015 dated 11.6.2015 pending before the 1st respondent against the order made in Notice No.Region Central/TPENF/0291/ 2015 dated 9.6.2015 issued by the 3rd respondent and further direct the respondent to dispose of the aforesaid Appeal.

W.P.No.23607 of 2015 filed for a Writ of Certiorarified Mandamus calling for the records relating to the order made in Letter No.11729/UD-VI(1)/2015-5 dated 24.07.2015 passed by the 1st respondent and quash the same and consequently forbear the respondents 2 and 3 and their subordinates from any manner interfering or sealing or locking the premises more particularly described in the writ petition schedule.

For petitioner : Mr.G.Ethirajulu

For Respondents : Mr.P.S.Shivashanmugasundaram, Spl.G.P., for R-1
Mr.V.C.Selvasekaran, for respondents 2 and 3

COMMON ORDER

(made by K.K.SASIDHARAN, J.)

These two Writ Petitions are at the instance of the owner of the premises bearing D.No.50, Flat No.D (2nd Floor), Nandhini Lakshmanan Street, Golden George Nagar, Mogapair East, Chennai, and the challenge is primarily to the order dated 24 July 2015, passed by the 1st respondent, dismissing the appeal filed under Section 80A of the Tamil Nadu Town and Country Planning Act, 1971.

2. The third respondent initiated proceedings against the petitioner alleging unauthorized construction. The Chennai Corporation issued de- occupation notice dated 9 June 2015. The said notice was challenged before the first respondent under Section 80A of the Act. The petitioner, in the meantime, filed W.P.No.17455 of 2015 to restrain respondents 2 and 3 from sealing or locking the premises, pending disposal of statutory appeal.

3. Subsequently, the Appellate Authority passed an order rejecting the appeal. The order passed on 24 July 2015 is challenged in W.P.No.23607 of 2015.

4. Heard the learned counsel for the petitioner, learned Government Pleader appearing on behalf of first respondent and the learned Standing counsel for Chennai Corporation.

5. The matter was heard at length. When it was made out that there is no question of interfering with the order passed by the statutory authority under Section 80A of the Tamil Nadu Town and Country Planning Act, the learned counsel for the petitioner, on instructions, submitted that the petitioner is prepared to demolish the illegal construction, within a period of three weeks.

6. The appeal preferred by the petitioner was considered on merits by the first respondent. The first respondent has very clearly observed that the so called temporary construction is nothing but a semi permanent structure and not a sun-shade, as claimed by the petitioner. The Appellate Authority further found that the petitioner is using the semi permanent structure as a gym. Therefore, it is very clear that the construction in question is an unauthorized one.

7. The petitioner is given three week's time from today to demolish the building in question, subject to the condition that she should give such an undertaking to the third respondent within a period of one week from today. In case no such undertaking is given, it is open to the respondents 2 and 3 to demolish the illegal structure and claim the cost of such demolition from the petitioner.

8. The Writ Petitions are disposed of with the above direction.
No costs. Consequently, M.P.No.1/2015 (2 nos.) are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

- 1 The Secretary, Urban and Housing
Development Department Fort St. George
Chennai-9.
 - 2 The Commissioner
Chennai Corporation, Chennai-3.
 - 3 The Executive Engineer
Enforcement-Regional Centre Central
Regional Office Corporation of Chennai 2nd
Cross Street East Pulla Avenue Shenoy
Nagar Chennai-30.
- 2 cc to Government Pleader.Sr.No.40156 & 40152
1 cc to Mr.A.Nagarajan , Advocate Sr.No.40282
1 cc to Mr.G.Ethirajulu , Advocate Sr.No.40157

W.P. Nos.17455 and 23607 of 2015

rsk(co)
pmk.17.8.2015

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