

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2015

CORAM:

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

W.P. No.17597 of 2015 and M.P. No.1 of 2015

1 K. Lalith Kumar
2 Kirit P. Shah
3 Neema Kirit Shah
4 Sweety Bhandari
5 Seema Kothari
6 Kiran Chopra
7 Kishanlal
8 Kiran
9 Rajendra Kumar Bothra
10 Rajesh Kumar Lunawat
11 R. Sushila Devi

Petitioners

Vs.

1 The Secretary to Government
Housing and Urban Development
Department
Fort St. George
Chennai 600 009

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

3 The Commissioner
Corporation of Chennai
Ripon Building
Park Town, Chennai

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent not to lock and seal the premises in New No.15, Old No.7, Avathana Poppier Road, II Lane, Choolai, Chennai 600 112 or to take any punitive measures pending final determination of the appeal and stay petition dated 21.05.2015 filed by the petitioners under Section 79 (A) of the Tamil Nadu Town and Country Planning Act, 1971.

For petitioners Mr. V. Vijaya Shankar
For R1 Mr. P.S. Sivashanmugasundaram
Special Government Pleader
For R2 Mr. C. Johnson, Standing Counsel
For R3 Ms. Karthikaa Ashok, Standing Counsel

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. C. Johnson, learned Standing Counsel, accepts notice for the second respondent. Ms. Karthikaa Ashok, learned Standing Counsel, 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 directing the first respondent not to lock and seal the premises in New No.15, Old No.7, Avathana Poppier Road, II Lane, Choolai, Chennai 600 112 or to take any punitive measures pending final determination of the appeal and stay petition dated 21.05.2015 filed by the petitioners under Section 79 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 Chennai Corporation has issued stop work-notice dated 07.01.2015 followed by locking, sealing and demolition notice dated 30.04.2015 against the petitioners under the provisions of the Act. Thereagainst, the petitioners have filed an appeal under Section 79 of the Act before the first respondent-Government on 21.05.2015, which is pending consideration. It is further seen that along with the said appeal, the petitioners have also preferred an application for interim stay of the orders impugned in the appeal, which is also pending consideration.

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 three 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 first respondent to consider the petitioners' 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 petitioners' 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 According to the learned Special Government Pleader appearing for the first respondent, the appeal filed, as annexed to this writ petition, does not disclose any cause of action, as the appeal is not maintainable against the orders impugned therein. We are not inclined to express any opinion on the merits of the case. It is for the appellate authority to examine the appeal and also, the facts involved therein, before taking a final decision.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Secretary to Government
Housing and Urban Development Department
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- 2 The Member Secretary
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- 3 The Commissioner
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Ripon Building
Park Town, Chennai

+1cc to Mr.C. Johnson, Advocate, S.R.No.30157
+1cc to M/s. Karthikaa Ashok, Advocate, S.R.No.30268
+1cc to the Government Pleader, S.R.No.30251
VSN(CO)
EU(01/07/2015)

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