

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

CORAM:

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

W.P. No. 19641 of 2015

Mrs. Usha Agarwal

...Petitioner

vs.

1. The Secretary to the Government,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.
3. The Executive Engineer,
(Enforcement-Region-Central),
Corporation of Chennai,
2nd Cross Street (East) Pulla Avenue,
Shenoy Nagar, Chennai.30.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus forbearing the respondents 2 and 3 from in any way interfering with the petitioner's building in at Door No.AG-02 Shanthi Colony, 4th Avenue, Anna Nagar, Chennai-600 040 particularly by way of locking, sealing and demolition in pursuance of the notice No.REGIONCENTRAL/ TPENF/ 0059/2015 dated 25.5.2015 during the pendency of petitioner's appeal dated 29.5.2015 on the file of the 1st respondent.

For petitioner : Mr.Sivavarthanan
For respondents : Mr.P.S.Sivashanmuga Sundaram,
Spl. G.P. for R1

Mr.A.Nagarajan for R2 & R3

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 and Mr. A. Nagaraj, learned counsel accepts notice for the respondents 2 and 3. 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 From a perusal of the records, it transpires that the third respondent has issued locking, sealing and demolition notice dated 16.04.2015 against the petitioner under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"). Thereagainst, the petitioner has already filed an appeal under Section 80-A of the Act before the first respondent-Government on 29.05.2015, challenging the aforesaid notice dated 16.04.2015, 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.

3 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 five 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.

4 Accordingly, we direct the first 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.

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

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

ra

To

- 1 The Secretary to the Government,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.
2. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.
3. The Executive Engineer,
(Enforcement-Region-Central),
Corporation of Chennai,
2nd Cross Street (East) Pulla Avenue,
Shenoy Nagar, Chennai.30.

1 CC to Mr.A.Nagarajan, Advocate SR.No. 33601

1 CC to Mr.Sivavarthanan, Advocate SR.No. 33473

SAI (CO)
PSI (13.07.2015)

W.P. No.19641 of 2015