

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7/7/2015

C O R A M

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

W.P. No.19896 of 2015
and

M.P. No.1 of 2015

J. Sidique

... Petitioner

Vs

1. The Secretary to Government
Housing and Urban Development Department
Secretariate
Chennai 600 009.
2. Chennai Metropolitan Development Authority
rep. By its Member Secretary
No.1 Gandhi Irwin Road
Egmore
Chennai 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the second respondent from any way interfering with the petitioner's premises at new No.97, Old Door No.249, Linghi Chetty Street, Chennai 1 particularly by way of locking and sealing and demolition pending final determination of the petitioner's appeal dated 6/4/2015 under Section 80-A of the Town and Country Planning Act with the first respondent herein.

For petitioner : Mr. P. Ramanathan

For respondents : Mr. P.S. Sivashanmugasundaram
Special Government Pleader for R1

Mr. C. Johnson for R.2.

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O R D E R

(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. C. Johnson, learned Standing Counsel for Chennai Metropolitan Development Authority, accepts notice for the second 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 second respondent not to initiate any coercive action of locking and sealing with regard to the petitioner's premises at new No.97, Old Door No.249, Linghi Chetty Street, Chennai 1, till the disposal of the petitioner's appeal petition dated 6th April, 2015, pending with the first respondent.

3. From a perusal of the records, it transpires that the second respondent, viz., the Chennai Metropolitan Development Authority has issued locking, sealing and demolition notice dated 25th March, 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 6/4/2015 challenging the aforesaid notice dated 25th March, 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 about three 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 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 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. The writ petition stands disposed of, with the above direction and observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Housing and Urban Development Department
Secretariate
Chennai 600 009.
2. The Member Secretary
Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road
Egmore
Chennai 600 008.

+1cc to Mr.P.Ramanathan, Advocate, S.R.No.33832
+1cc to Mr.C.Johnson, Advocate, S.R.No.33879
+1cc to the Government Pleader, S.R.No.33966

सत्यमेव जयते

W.P. No.19896 of 2015
and
M.P.No.1 of 2015

BVR(CO)
CA(23/07/2015)

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