

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2015

CORAM:

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

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.22900 of 2015

P.N. Muziburrahman

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
Ripon Buildings
Chennai 600 003

3 The Regional Deputy Commissioner
Corporation of Chennai (North Zone)
62, Basin Bridge Road
Old Washermanpet
Chennai 600 021

4 The Executive Engineer - Zone V
Corporation of Chennai
Royapuram, Chennai 600 013

5 The Assistant Executive Engineer
Unit 13, Division 55, Zone V
Corporation of Chennai
Royapuram, Chennai 600 013

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 3 to 5 to forbear them from in any way interfering with the building in New No.30 and Old No.35, Kutty Maistry Street, Seven Wells, Chennai 600 001, particularly, by way of locking, sealing and demolition in pursuance of the notice in Letter No.Enf/Dn.55/028/2015 dated 10.04.2015 issued by the respondents 3 to 5 during the pendency of appeal dated 29.05.2015 on the file of the first respondent.

For petitioner Mr. Abdul Hadi

For R1 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For RR 2-5 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. Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for respondents 2 to 5. 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 The petitioner, residing at New No.30, Old No.35, Kutty Maistry Street, Seven Wells, Chennai 600 001, was served with a notice under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971, (for short "the Act") on 10th April 2015, calling upon him to remove the deviations as stated therein and bring the premises in question in conformity with the sanctioned plan within 30 days. It was further stated in the said notice that in default, further action as contemplated under Section 56(1), 56(2) and 57(4) and (5) Clause (a) and (b) (i) and (ii) of the Act would be taken. The petitioner did not take any action within the specified period of thirty days, i.e., he neither tried to remove the deviations nor preferred an appeal under the relevant provisions of the Act to the appellate authority. Subsequently, an appeal was preferred by the petitioner on 29th May 2015 after the specified period of 30 days under Section 80-A of the Act, along with an application for interim relief. The petitioner has come up with the instant writ petition, seeking a direction to respondents 3 to 5 not to interfere with the building in question by way of locking, sealing and demolition, in pursuance of the earlier notice dated 10th April 2015, during the pendency of the appeal dated 29th May 2015, as aforestated.

3 We have heard the learned counsel for the parties and also perused the pleadings and documents appended thereto.

4 We are afraid that we cannot pass any order granting either status quo or any other relief, at this stage, for the reason that the petitioner has not taken any step within the period specified in the locking, sealing and demolition notice. However, since appeal has been preferred as against the locking, sealing and demolition notice, the appellate authority, i.e., the first respondent/State is directed to consider and pass orders on the petitioner's appeal on

merits and in accordance with law, within the statutory period. In the meantime, if there is an application for interim relief, the same may be considered and decided within a period of two weeks.

5 The writ petition stands disposed of with the above observations. Costs made easy.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

cad
To

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1 cc to Ms. Karthikaa Ashok , Advocate Sr.No.38317

1 cc to Government Pleader.Sr.No.38922

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gj (co)
pmk.14.8.2015