

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No.23625 of 2015 and M.P. No.1 of 2015

A.R. Subath Khan

Petitioner
Vs.

- 1 The Government of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development Department
Secretariat. 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 directing the 2nd respondent to forbear them from in any way interfering with the petitioner's premises at new Door No.248 Old Door No.96 Linghi Chetty Street, Chennai 600 001 particularly by way of locking and sealing and demolition notice dated 14.07.2015 particularly by way of locking and sealing and demolition pending final determination of the petitioner's appeal dated 27.07.2015 under Section 80-A and 80-A(3) of the Town and country Planning Act, 1971 in accordance with law.

For petitioner Mr. D.S.Rajasekaran

For respondents Mr. I.S. Inbadurai

Spl. Govt. Pleader - R1

Mr. C. Johnson - R2

ORDER

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

Mr. I. S. Inbadurai, learned Special Government Pleader, accepts notice for the first respondent. Mr. C. Johnson, learned counsel, 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 2nd respondent to forbear them from in any way interfering with the petitioner's premises at new Door No. 96 Linghi Chetty Street, Chennai 600 001 particularly by way of locking and sealing and demolition notice dated 14.07.2015 particularly by way of locking and sealing and demolition pending final determination of the petitioner's appeal dated 27.07.2015 under Section 80-A and 80-A(3) of the Act.

3 At this stage, it is better to point out certain provisions of law under which an appeal is to be decided. The second proviso to Section 80-A of the Act prescribes that the application for revision/appeal filed under Section 80-A of the Act shall be disposed of by the Government within 90 days from the date of receipt of the application. Grant of 90 days time to dispose of the appeal is certainly with some object, perhaps, to obtain views of the authorities and also to provide an opportunity of hearing to all the parties concerned. In that process, 90 days time may be required to render justice between the parties.

4 Now, the petitioner has come up with the instant writ petition within 3 days from the date of preferring the appeal, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, as, the Appellate Authority has not been given an opportunity to take action, within the reasonable time. Thus, this writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

5 We deprecate this practice of rushing to the Writ Court invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, without waiting for a decision within the prescribed statutory period. This practice is tantamount to abuse of judicial process.

6 It is also brought to our notice that an application for interim relief has also been filed under Section 80-A(3) of the Act. We expect that the authorities will consider the application for interim relief, at the earliest, preferably within a period of two weeks, whenever an application for interim relief is filed along with the memorandum of appeal.

7 In view of the foregoing, status quo, in respect of the property in question, as obtained today, shall be maintained for a period of two weeks from today.

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

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

- 1 The Secretary to Government,
Government of Tamil Nadu
Housing and Urban Development Department
Secretariat. Chennai 600 009.
 2. Member Secretary,,
Chennai Metropolitan Development Authority,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.
- + 1 cc to Mr.D.S.Rajsekar, Advocate SR 39989
+ 1 cc to Govt.Pleader SR 40155
+ 1 cc to Mr.C.Johnson, Advocate SR 40052

svi(co)
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W.P. No.23625 of 2015

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