IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2015

CORAM:

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

W.P. No. 24488 of 2015

1. B. Bharatkumar

2. Champalal .... Petitioners

vs.

1 The Secretary,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George,
Chennai 600 009.

2. The Member Secretary,
The Chennai Metropolitan Development Authority,
Thalamuthu Natarajar Building,
1 Gandhi Irwin Road, Egmore,
Chennai 600 008.

3. The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

4. The Executive Engineer,
Enforcement Z-V,
RDC (North) Office, Corporation of Chennai,
Chennai. Respondents

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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the 1st respondent herein to dispose the appeal dated 8.6.2015 submitted by the writ petitioners herein within the stipulated period prescribed by this Court.

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For petitioners : Mr. G. Thangavel

For respondents : Mr. I.S. Inbathurai
Spl. Govt. Pleader – R1
Mrs. Karthikaa Ashok – R3 & R4

ORDER

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

Mr. I.S. Inbathurai, learned Special Government Pleader accepts notice for the first respondent and Mrs. Karthikaa Ashok, learned counsel accepts notice for the respondents 3 and 4. 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 fourth respondent has issued locking, sealing and demolition notice dated 26.03.2015 against the petitioners under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"). Thereagainst, the petitioners have already filed an appeal under Section 80-A of the Act before the first respondent-Government on 08.06.205, challenging the aforesaid notice dated 26.03.2015, which is pending consideration. It is further seen that along with the said appeal, the petitioners have also preferred an application for interim stay, 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 eight 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.

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The Appellate Authority is at liberty to consider the issue of limitation also, while examining the petitioners' appeal.

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

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

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

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The Chennai Metropolitan Development Authority,
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4. The Executive Engineer,
Enforcement Z-V,
RDC (North) Office, Corporation of Chennai,
Chennai.

+1 cc to Mr.G.Thangavel, Advocate, sr.41520.
+1 cc to Mrs.Karthika Ashok, Advocate, sr.41645
+1 cc to the Government Pleader, sr.41615.

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