

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

CORAM:

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

W.P. No.26413 of 2015

and

M.P. No.1 of 2015

M. Meena

...Petitioner

vs.

- 1 The Government of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority
(CMDA)
Thalamuthu Natarajan Building
No.1, Gandhi Irwini Road
Egmore, Chennai 600 008
- 3 The Commissioner
Corporation of Chennai
Ripon Building, Chennai
- 4 The Regional Deputy Commissioner
Chennai Corporation (North Zone)
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at R.S. No.2822/1, 2

Block No.26, V.O.C. Nagar Village, Fort - Tondiarpet Taluk, Chennai, particularly, by way of locking and sealing and demolition pending final determination of the appeal dated 05.08.2015, pending with the first respondent under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971.

For petitioner : Mr. D. Balachandran
for Mr.AR.L. Sundaresan (SC)

For R1 : Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader

For R2 : Mr. C. Johnson
Standing Counsel

For RR 3 & 4 : Mrs. Karthikaa Ashok
Standing Counsel

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. C. Johnson, learned Standing Counsel, accepts notice for the second respondent. Mrs. Karthikaa Ashok, learned Standing Counsel, accepts notice for 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 This writ petition is filed seeking a writ of mandamus forbearing the respondents 2 to 4, from in any way, interfering with the building at R.S. No.2822/1, 2 Block No.26, V.O.C. Nagar Village, Fort - Tondiarpet Taluk, Chennai, particularly, by way of locking, sealing and demolition, pending final determination of the petitioner's appeal dated 5th August 2015 filed under Section 79 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), on the file of the first respondent.

3 From a perusal of the records, it transpires that the second respondent has passed an order dated 24th June 2015, rejecting the planning permission sought by the petitioner. Thereagainst, the petitioner has filed an appeal under Section 79 of the Act before the first respondent-Government on 5th August 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 79(5) 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 a fortnight 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 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 from today, i.e., 25th August, 2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties. The appellate authority is at liberty to consider the issue of limitation also, while examining the petitioner's appeal.

6 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//

सत्यमेव जयते

Sub Assistant Registrar

cad

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To

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Chennai Corporation (North Zone)
No.62, Basin Bridge Road
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Chennai 600 021
- 1 CC to Mr. D. Balachandran, Advocate SR.No. 45013
- 1 CC to Mr. C. Johnson, Advocate SR.No. 45177
- 1 CC to the Government Pleader, SR.No. 45439
- 2 CCs to Mrs. Karthikaa Ashok, Advocate SR.No. 45516, 45518

सत्यमेव जयते

W.P. No.26413 of 2015

CTK (CO)
PSI (08.09.2015)

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