

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.26453 of 2015

and

M.P. No.1 of 2015

Nakoda Unique Gold Pvt. Ltd.
represented by its Director
Shri. Goutham Kumar Kantilal
New No.157, Old No.77
N.S.C. Bose Road
George Town, Chennai 600 001

... Petitioner

Vs.

1. The Secretary to the Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009
2. The Member Secretary
Chennai Metropolitan Development Authority
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 second respondent to forbear from in any way interfering with the petitioner's building in New No.157 and Old No.77, NSC Bose Road, George Town, Chennai 600 001, particularly, by way of locking, sealing and demolition in pursuance of the notice in Letter No.ED/N-I/471/2015 dated 18.03.2015 during the pendency of the petitioner's appeal dated 20.05.2015 on the file of the first respondent.

For petitioner : Mr. V. Lakshminarayanan
for M/s. B. Vijay

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

For R2 : Mr. C. Johnson
Standing Counsel

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent and Mr. C. Johnson, learned Standing 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 forbearing the second respondent from, in any way, interfering with the petitioner's building in New No.157 and Old No.77, NSC Bose Road, George Town, Chennai 600 001, particularly, by way of locking, sealing and demolition in pursuance of the locking, sealing and demolition notice dated 18th March 2015 during the pendency of the petitioner's appeal dated 20th May 2015 on the file of the first respondent.

3. From a perusal of the records, it transpires that the second respondent has issued locking, sealing and demolition notice dated 18th 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 filed an appeal under Section 80-A of the Act before the first respondent-Government on 20th May 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 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 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(CO)

//True Copy//

Sub Assistant Registrar

cad

To

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

+1cc to Mr.B.Vijay, Advocate, S.R.No.44984
+1cc to Mr.C.Johnson, Advocate, S.R.No.45176
+1cc to the Government Pleader, S.R.No.45435

W.P. No.26453 of 2015

AK(CO)
CA(09/09/2015)