

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2015

CORAM:

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

W.P. No. 27080 of 2015
and
M.P. No. 1 of 2015

R.M.Balasubramanian

.... Petitioner

vs.

1. State of Tamil Nadu,
rep. By its Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.
2. The Chennai Metropolitan
Development Authority (CMDA)
rep. by its Member Secretary,
Talamuthu Natarajan Building,
No. 1 Gandhi Irwin Road,
Egmore Chennai-8
- 3 Corporation of Chennai,
rep. By its Executive Engineer,
TP Enforcement South,
Regional Deputy Commissioner (South),
Adyar, Chennai.20.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari to call for the entire records pertaining to the impugned Notice NO.5082/2015 dated 21.8.2015 on the file of the 3rd respondent herein and quash the same.

For petitioner : Mr. A. Devnarendran

For respondents : Mr. N. Sakthivel
Govt. Advocate - R1
Mr. C. Johnson - R2
Mr. V.C. Selvasekaran - R3

ORDER

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

Mr. N. Sakthivel, learned Government Advocate accepts notice for the first respondent, Mr. C. Johnson, learned counsel accepts notice for the second respondent and Mr. V.C. Selvasekaran, learned counsel accepts notice for the third 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. The third respondent herein has issued locking, sealing and demolition notice dated 10.07.2014 against the petitioners under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"). Thereafter, the petitioner has submitted an application for regularisation of the building in question on 04.08.2014 and the second respondent, vide its communication dated 22.12.2014, has refused to grant permission for regularisation of the said construction. Thereagainst, the petitioner has filed an appeal under Section 79 of the Tamil Nadu Town and Country Planning Act (for short "the Act") before the first respondent-Government on 20.02.2015, challenging the aforesaid rejection order dated 22.12.2014, which is pending consideration.

3. Without going into the merits of the case, we are of the considered view that if the 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, if an application seeking interim relief is filed by the petitioner, the same shall be considered and decided by the first respondent as early as possible, preferably, within a period of two weeks from today and the appeal shall also be considered on its own merits and in accordance with law, within the statutory period prescribed under the provisions of law. It is made clear that for a period of two weeks from today i.e. 01.09.2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties and the petitioner is restrained from making any further construction on the property in question, in the meantime. The Appellate Authority is at liberty to consider the issue of limitation also, while examining the petitioner's appeal.

5. With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. Secretary,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.
2. The Member Secretary,
The Chennai Metropolitan
Development Authority (CMDA)
Talamuthu Natarajan Building,
No. 1 Gandhi Irwin Road,
Egmore Chennai-8
- 3 The Executive Engineer,
Corporation of Chennai,
TP Enforcement South,
Regional Deputy Commissioner (South),
Adyar, Chennai.20.

+2 ccs to M/s.A.Devnarendran, Advocate, sr.46429
+1 cc to M/s. C.Johnson, Advocate, sr.46750
+1 cc to The Government Pleader, sr.46827

W.P. No.27080 of 2015

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