

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.27088 of 2015 and M.P. No.1 of 2015

1 K. Heeraram

2 H. Sothi Devi

Petitioners

vs.

1 Government of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009

2 The Regional Deputy Commissioner
Chennai Corporation - North Zone
No.62, Basin Bridge Road
Chennai 600 021

3 The Executive Engineer
(Enforcement) RDC (North Office)
Zone V, Corporation of Chennai
Chennai

4 The Assistant Executive Engineer
Unit 13, Seven Well Street
Chennai 600 001

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 New No.8, Old No.14, Gosha Sahib Lane, Sowcarpet, Chennai 600 001, particularly, by way of locking and sealing and demolition, pending final determination of the appeal dated 11.08.2015, pending with the first respondent under Section 80-A of the Town and Country Planning Act, 1971.

For petitioners
For R1
For RR 2-4

Ms. Meenakumari
Mr. N. Sakthivel, Government Advocate
Mrs. Karthikaa Ashok
Standing Counsel

ORDER

(made by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Ms. Karthikaa Ashok, learned Standing Counsel, accepts notice for respondents 2 to 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 New No.8, Old No.14, Gosha Sahib Lane, Sowcarpet, Chennai 600 001, particularly, by way of locking, sealing and demolition, pending final determination of the petitioners' appeal dated 11th August 2015 filed under Section 80-A of the 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 Chennai Corporation has issued locking, sealing and demolition notice dated 3rd July 2015 against the petitioners under Sections 56 and 57 read with Section 85 of the Act. Thereagainst, the petitioners have filed an appeal under Section 80-A of the Act before the first respondent-Government on 11th August 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.

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 two 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.

5 Accordingly, we direct the first respondent to consider the petitioners' application for interim relief as early as possible, preferably, within a period of two weeks and also to consider the petitioners' 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., 31st August, 2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties and the petitioners are restrained from making any further construction in the property in question. Further, the appellate authority is at

liberty to consider the issue of limitation also, while examining the petitioners' appeal.

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

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1 The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George
Chennai 600 009
- 2 The Regional Deputy Commissioner
Chennai Corporation - North Zone
No.62, Basin Bridge Road
Chennai 600 021
- 3 The Executive Engineer
(Enforcement) RDC (North Office)
Zone V, Corporation of Chennai
Chennai
- 4 The Assistant Executive Engineer
Unit 13, Seven Well Street
Chennai 600 001

+1 cc to Mr.Balachandran Advocate sr.46197
+1 cc to Karthika Ashok Advocate sr.46303
+1 cc to Government Pleader sr.46878

W.P. No.27088 of 2015

aa10/09/2015