

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.27174 of 2015
and
M.P. No.1 of 2015

1. A. Faritha Begum
2. A. Ahamed Musthafa ... Petitioners

Vs.

1. The State of Tamil Nadu
represented by its Secretary
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 forbearing the respondents 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolition of the petitioners' premises at No.106/126, Coral Merchant Street, Chennai 600 001 under the Tamil Nadu Town and Country Planning Act, till the disposal of the petitioners' appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 07.08.2015, pending on the file of the first respondent.

For petitioners : Mr. L. Chandrakumar

For R1 : Mr. N. Sakthivel, Government Advocate

For R2 : Mr. C. Johnson, Standing Counsel

ORDER
(made by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. 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 respondents 1 and 2 from interfering with the petitioners' premises at No.106/126, Coral Merchant Street, Chennai 600 001, in any manner, particularly, by way of locking, sealing and demolition, pending final determination of their appeal dated 7th August 2015, preferred under Section 80-A of the Tamil Nadu Town and Country Planning Act (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 issued locking, sealing and demolition notice dated 20th March 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 7th 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/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Secretary
Housing and Urban Development Department
State of Tamil Nadu
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.C.Johnson, Advocate, S.R.No.46752

+1cc to Mr.L.Chandra Kumar, Advocate, S.R.No.46394

+1cc to the Government Pleader, S.R.No.46896

PA(CO)
CA(09/09/2015)

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