

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.27175 of 2015 and M.P. No.1 of 2015

1 Prasanta Maji

2 Aparna Maji

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 second respondent from initiating any coercive action of locking and sealing and demolition with regard to the building put up at Old No.100, New No.196, Anna Pillai Street, Sowcarpet, Chennai 600 079, pending determination of the appeal petition submitted by the petitioners under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 28.07.2015 with the first respondent.

For petitioners

Mr. P. Ramanathan

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 second respondent from initiating any coercive action of locking, sealing and demolition with regard to the building put up at Old No.100, New No.196, Anna Pillai Street, Sowcarpet, Chennai 600 079, pending determination of the petitioners' appeal petition dated 28th July 2015 preferred under Section 80-A of the Tamil Nadu Town and Country Planning Act (for short "the Act") before the first respondent.

3 From a perusal of the records, it transpires that the second respondent 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 28th July 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 nearly four 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.

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

-Sd/-
Asst.Registrar (CSIII)

/true copy/

Sub Asst. Registrar

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
- +1 cc to Mr.P.Ramanathan Advocate sr.46408
+1 cc to Mr.C.Johnson Advocate sr.46751
+1 cc to Government Pleader sr.46889

W.P. No.27175 of 2015

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