

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2015

CORAM:

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

W.P. No.27458 of 2015

and

M.P.No.1 of 2015

Nalini

... Petitioner

Vs.

1. State of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai 600 009
2. The Commissioner
Corporation of Chennai
Chennai 600 003
3. The Zonal Officer
Zone 11, Corporation of Chennai
No.123, Arcot Road
Valasaravakkam
Chennai 600 087

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to pass an order on the stay application on the statutory appeal dated 08.06.2015 and on 06.07.2015, pending before the first respondent within a stipulated period.

For petitioner : Mr. A.R. Nixon

For R 1 : Mr. N. Sakthivel, Govt. Advocate

For RR 2 & 3 : Mr. V.C. Selvasekaran
Standing Counsel

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for respondents 2 and 3. 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. From a perusal of the records, it is seen that, pursuant to locking, sealing and demolition notice dated 17th February 2014, the Chennai Corporation has issued de-occupation notice dated 27th December 2014 under Sections 56 2(A) and 57 read with Section 85 of the Act. Thereagainst, the petitioner, along with her son and two daughters, has preferred an appeal before the first respondent under Section 80-A of the Act on 8th June 2015, which is pending consideration. It is further seen that along with the said appeal, the petitioner has also filed an application for interim stay in terms of the provisions of Section 80-A(3) of the Act. Seemingly, pending the said appeal and stay application, the petitioner, along with her son and two daughters, on 6th July 2015, has filed yet another appeal before the first respondent, challenging the same de-occupation notice dated 27th December 2014, which was put to challenge in the appeal filed on 8th June 2015. Along with the appeal filed on 6th July 2015 as well, an application for stay has been filed.

3. By this writ petition, the petitioner seeks a direction to the first respondent to pass orders on the two stay applications filed along with two appeals dated 8th June 2015 and 6th July 2015 respectively, within a time-frame.

4. Without going into the merits of the case, we are of the considered view that if appeals are filed along with the applications for interim relief, the officers are well advised to consider the applications 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 applications for interim relief as early as possible, preferably within a period of two weeks and also to consider the appeals dated 8th June 2015 and 6th July 2015 within the statutory period prescribed under the provisions of law, on their own merits and in accordance with law. It is made clear that for a period of two

weeks from today, i.e., 2nd September, 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 in the property in question.

6. With the above directions, the writ petition is disposed of. 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
Government of Tamil Nadu
Secretariat
Fort St. George
Chennai 600 009
2. The Commissioner
Corporation of Chennai
Chennai 600 003
3. The Zonal Officer
Zone 11, Corporation of Chennai
No.123, Arcot Road
Valasaravakkam
Chennai 600 087

+1cc to Mr.Nixon, Advocate, S.R.No.46965
+1cc to the Government Pleader, S.R.No.48120

MG(CO)
CA(18/09/2015)

W.P. No.27458 of 2015