

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2015

CORAM:

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

W.P. No.28115 of 2015
and

M.P.No.1 of 2015

1.Pinky S. Jain
2.Sripal P. Jain

... Petitioners

Vs.

1. The Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009

2. Chennai Metropolitan Development Authority
represented by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the second respondent or anybody on their behalf from in any way interfering with the petitioners' premises at New No.160, Old No.436, Mint Street, Chennai 600 079 with respect to second floor in the same, particularly, by way of locking, sealing and demolition, pending determination of the petitioners' appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 11.08.2015.

For petitioners : Mr. P. Ramanathan

For R1 : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R2 : Mr. N. Sampath,
Standing Counsel

O R D E R
(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. N. Sampath, 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 in any way interfering with the petitioners' premises at second floor at New No.160, Old No.436, Mint Street, Chennai 600 079, by way of locking, sealing and demolition, pending determination of their appeal dated 11 August 2015 filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3. From a perusal of the records, it is seen that the Chennai Metropolitan Development Authority, the second respondent herein, has issued a locking, sealing and demolition notice on the 28 July 2015 under Sections 56, 57 and 85 of the Act against the petitioners. Thereagainst, the petitioners have preferred an appeal before the first respondent under Section 80-A of the Act on the 11 August 2015, which is pending consideration. It is further seen that along with the said appeal, the petitioners have also filed an application for interim stay in terms of the provisions of Section 80-A(3) of the Act.

4. 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, in the light of the order dated 29th September 2015 passed by this Division Bench in Lalithkumar C. Soni Vs. Government of Tamil Nadu and others¹. It is made clear that for a period of two weeks from

¹ W.A.Nos. 16392 of 2015 batch.

today, i.e., 30 September, 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. With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Secretary to Government
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

+1cc to M/s.P.Ramanathan, Advocate, S.R.No.53119
+1cc to the Government Pleader, S.R.No.53308

W.P. No.28115 of 2015

MP(CO)
CA(15/10/2015)

सत्यमेव जयते

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