

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2015

CORAM:

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

W.P. No.29331 of 2015

and

M.P. No.1 of 2015

B. Babu Shankar

Petitioner

Vs.

- 1 The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai-9.
- 2 The Regional Deputy
Commissioner (Central),
Corporation of Chennai,
Regional office-Central,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
Chennai-30.
- 3 The Executive Engineer,
Enforcement Region Central,
Corporation of Chennai,
Regional office-Central,
2nd Cross Street (East),
Pulla Avenue, Shenoy Nagar,
Chennai-30.
- 4 The Executive Engineer-Zone IX,
Corporation of Chennai,
No.1 Lake Area 4th Cross Street,
Chennai-34.

5 The Assistant Executive Engineer-Zone IX,
Corporation of Chennai,
No. 1 Lake Area, 4th Cross Street,
Chennai-34.

6 Ramdass N Naik

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the 2nd respondent Order in Region Central/ TPENF/ E2/ 10919/2015 dated 10.9.2015 issued by the 2nd respondent and quash the same.

For petitioner Mr. A. Swaminathan

For Respondents Mrs. A. Srijayanthi
Spl. Govt. Pleader - R1

Mr. R. Arunmozhi - R2 to R5

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the respondent. Mr. R. Arunmozhi, learned counsel, accepts notice for the respondents 2 to 5. Notice to sixth respondent is dispensed with, at this stage, as no consequential action shall be taken by the concerned authorities, without notice to him. Thus, with the consent of the learned counsel for the petitioner and the learned counsel for the official respondents, the writ petition is taken up for disposal, at the admission stage itself.

2. The case of the petitioner is that the petitioner has preferred an appeal under the provisions of Section 79 read with 80-A of the Town and Country Planning Act, 1970 along with an application for interim relief, assailing the correctness of the order dated 30.06.2015 whereunder de-occupation notice was served on the petitioner.

3. Learned counsel for the petitioner submits that during the pendency of the appeal, the authorities have issued a fresh impugned notice dated 10.09.2015 for demolition of the property in question and as such, the petitioner's property as aforestated be protected till the disposal of the appeal.

4. On the other hand, the learned Special Government Pleader appearing for the first respondent submits that the appeal has been filed on 21.07.2015 and the time fixed for the disposal of the appeal is 90 days as per the provisions of law, but, the application for interim relief filed along with the aforestated appeal, will be

considered within a period of two weeks from today.

5. In view of the above, without going into the merits of the case, we are of the considered view that if the 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.

6. Accordingly, if an application seeking interim relief is filed by the petitioner, the same shall be considered and decided by the first respondent as early as possible, preferably, within a period of two weeks from today and the appeal shall also be considered on its own merits and in accordance with law, within the statutory period prescribed under the provisions of law. It is made clear that for a period of two weeks from today i.e. 16.09.2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties. The Appellate Authority is at liberty to consider the issue of limitation also, while examining the petitioner's appeal.

7. With the above directions, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

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To

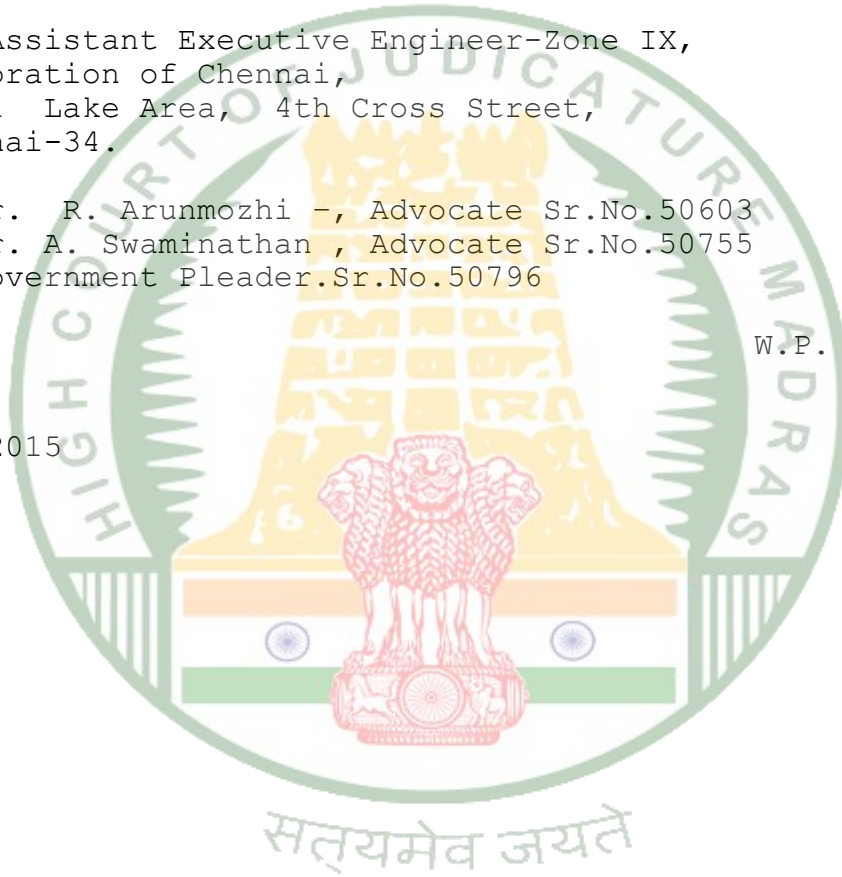
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1 cc to Mr. R. Arunmozhi -, Advocate Sr.No.50603
1 cc to Mr. A. Swaminathan , Advocate Sr.No.50755
1 cc to Government Pleader.Sr.No.50796

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