

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.29405 of 2015 and M.P.No.1 of 2015

Hasina

...Petitioner

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 for issuance of 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 petitioner's premises at New No.206/2, Old No.108/2, Prakasam Salai (Broadway Road) Broadway, Chennai - 1 under the Town and Country Planning Act, till the disposal of the petitioner's appeal under Section 80-A of the Tamil Nadu Country Planning Act dated 25.08.2015, pending on the file of the first respondent.

For petitioner :Mr. L. Chandrakumar

For R1 :Mr. P.S. Sivashanmugasundaram
Spl. 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 and Mr. N. Sampath, learned Standing Counsel, accept notice for respondents 1 and 2 respectively. 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 in any manner initiating any coercive action of locking, sealing and demolition of the petitioner's premises at New No.206/2, Old No.108/2, Prakasam Salai (Broadway Road) Broadway, Chennai - 1 under the Town and Country Planning Act, 1971 (for short "the Act"), till the disposal of the petitioner's appeal dated 25 August 2015 filed under Section 80-A of the Act before the first respondent.

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 27 July 2015 under Sections 56, 57 and 85 of the Act against the petitioner. Thereagainst, the petitioner has preferred an appeal before the first respondent under Section 80-A of the Act on 25 August 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.

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 petitioner's application for interim relief as early as possible, preferably within a period of two weeks and also to consider the petitioner's 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 today, i.e., 30 September, 2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the

1 W.A.Nos. 16392 of 2015 batch.

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

//True copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary
State of Tamil Nadu
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

+1 cc to Mr.L.Chandrakumar, Advocate (sr.53125)
+1 cc to Mr.N.Sampath, Advocate (sr.53207)

सत्यमेव जयते

W.P. No.29405 of 2015

TM(co)
cp 09/10/2015

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