

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2015

CORAM:

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

W.P. No.29903 of 2015 and M.P.No.1 of 2015

Younus T. Millwala

Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. By its Secretary,
Housing & Urban Development Department,
Secretariat, Fort St. George,
Chennai 600 009.

2. The Member Secretary,
Chennai Metropolitan
Development Authority, (CMDA)
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.

3. The Executive Engineer,
Zone V,
Corporation of Chennai,
No.62 Basin Bridge Road,
Chennai.

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus forbearing the 2nd and 3rd respondents from in any way interfering with the building at New No. 107 Old No.149, Linghi Chetty Street, Chennai 600 001 comprised in R.S.No.4397/0 Block 40 V.O.C. Nagar Village, Fort - Tondiarpet Taluk, Chennai, particularly by way of locking and sealing and demolition pending final determination of the appeal dated 30.06.2015 pending with the first respondent under Section 79 of the Town and Country Planning Act, 1971.

For petitioner Mr. AR.L. Sundaresan
Sr. Counsel
for
Mr. D. Balachandran

For respondents Mrs. A. Srijayanthi

Special Government Pleader- R1

Mr. N. Sampath - R2

Mr. V.C.Selvasekaran - R3

O R D E R

(made by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. N. Sampath, learned counsel, accepts notice for second respondent and Mr. V.C. Selvasekaran, learned counsel accepts notice for the third 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 respondents 2 and 3 from in any way interfering with the building at New No. 107 Old No.149, Linghi Chetty Street, Chennai 600 001 comprised in R.S.No.4397/0 Block 40 V.O.C. Nagar Village, Fort - Tondiarpet Taluk, Chennai, by way of locking and sealing and demolition notice, pending disposal of the appeal dated 30.06.2015.

3 From a perusal of the records, it transpires that the petitioner has submitted a revised plan on 30.03.2015 for the building in question and the second respondent, vide his communication dated 18.06.2015, has refused to grant permission for regularisation of the said construction. Thereagainst, the petitioner has filed an appeal under Section 79 of the Tamil Nadu Town and Country Planning Act (for short "the Act") before the first respondent-Government on 30.06.2015, challenging the aforesaid rejection order dated 18.06.2015, which is pending consideration. It is further seen that along with the said appeal, the petitioner has also preferred an application for interim stay, in view of the provisions of Section 79 (5) of the Act.

4 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.

5 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.

6 With the above directions, the writ petition is disposed

of. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Department,
Secretariat, Fort St. George,
Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan
Development Authority, (CMDA)
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.
3. The Executive Engineer,
Zone V,
Corporation of Chennai,
No.62 Basin Bridge Road,
Chennai.

+1 cc to Mr.D.Balachandran, Advocate, sr.51792
+1 cc to Mr.N.Sampath, Advocate, sr.52129
+1 cc to The Government Pleader, sr.52042

W.P. No.29903 of 2015

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