

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2015

CORAM:

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

W.P. No. 30518 of 2015

K.S. Kaviarasu

Petitioner

vs.

1 The Secretary of the  
Department of Housing  
and Urban Development,  
Government of Tamilnadu,  
Secretariat,  
Fort St. George, Chennai-9

2 The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Malagai,  
No.1 Gandhi Irwin Road, Chennai-8

3 Bhagiarathan

4 Girish

Respondents

Writ Petition in WP No.25129 of 2015 filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the second respondent in relation to issuance of de-occupation notice in Ref.Letter No.EC/EA/N-I/7179/2015, dated 22.09.2015 and quash the same.

For petitioner Mr. S.R. Rajagopal

For respondents Mr. P.S.Sivashanmugasundaram  
Spl. Govt. Pleader - R1  
Mr. N. Sampath - R2

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for the first respondent and Mr. N.Sampath, learned counsel, accepts notice for the second respondent. Notice

to respondents 3 and 4 is dispensed with, at this stage, as no consequential action shall be taken by the concerned authorities, without notice to them. With the consent of the learned counsel for the petitioner and the learned counsel for the official respondents, this writ petition is taken up for final disposal.

2 This writ petition is filed challenging the locking and sealing and de-occupation notice dated 22.09.2015 issued by the second respondent under Section 56(2) sub-clause(iii) and (2A) of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") on the ground that there is no deviation in the portion occupied by the petitioner.

3 We have heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the first respondent as well as the learned counsel for the second respondent.

4 It is to be noted that as against the impugned notice issued under Section 56(2) sub-clause(iii) and (2A) of the Act, statutory appeal remedy is available under Section 80-A of the Act. As such, there is no reason to interfere with the impugned notice, at this stage.

5 As a sequel, the writ petition is dismissed as not maintainable. However, liberty is reserved to the petitioner to take recourse to the appellate forum within a period of two weeks. In the event, an appeal along with the application for interim relief is preferred within a period of two weeks, the appellate authority is directed to consider the interim application within further time of two weeks therefrom. The appellate authority is also directed to decide the appeal within the statutory period prescribed under the provisions of law. No costs. Connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ra

To

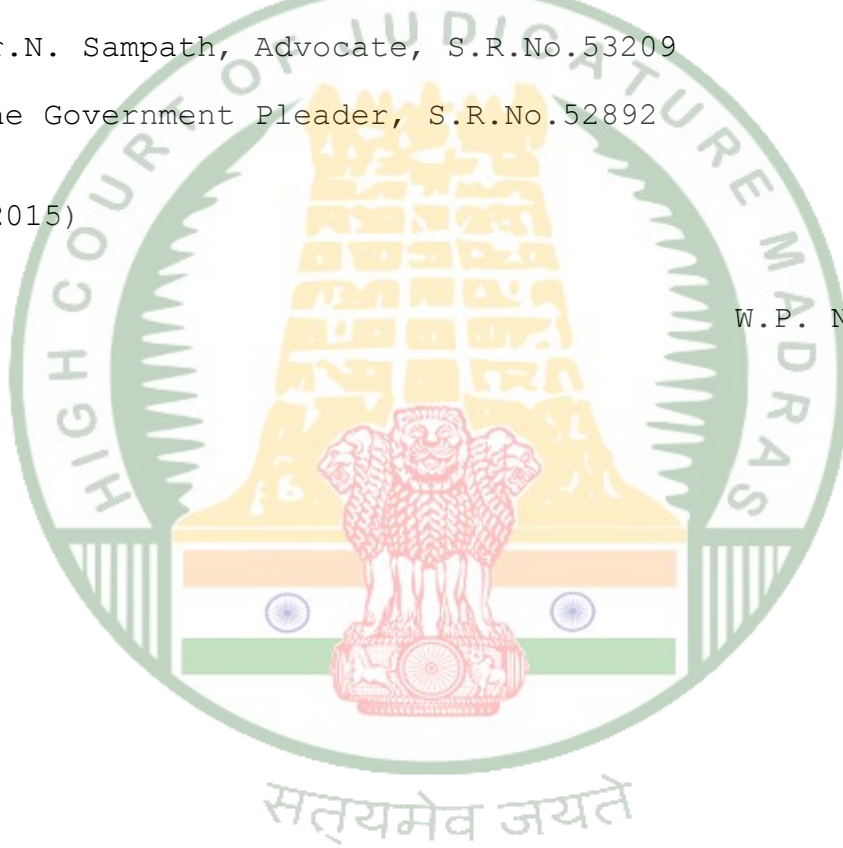
- 1 The Secretary of the  
Department of Housing  
and Urban Development,  
Government of Tamilnadu,  
Secretariat,  
Fort St. George, Chennai-9
- 2 The Member Secretary,  
Chennai Metropolitan Development Authority,  
Thalamuthu Natarajan Malagai,  
No.1 Gandhi Irwin Road, Chennai-8

+1cc to Mr.N. Sampath, Advocate, S.R.No.53209

+1cc to the Government Pleader, S.R.No.52892

KU(CO)  
EU(09/10/2015)

W.P. No. 30518 of 2015



WEB COPY