

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2015

CORAM:

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

W.P.No.31268 of 2015 and M.P.No.1 of 2015

N. Senthil Kumar

Petitioner

Vs

- 1 Government of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development
Fort St. George
Chennai 600 009
- 2 The Commissioner
Corporation of Chennai
Ripon Buildings
Chennai 600 003
- 3 The Executive Engineer
Enforcement Region - Central
Corporation of Chennai
II Cross Street
East Pullah Avenue
Shenoy Nagar
Chennai 600 030

Respondents

Writ Petition filed under Article 226 of the Constitution seeking a writ of certiorarified mandamus by calling for the records of the first respondent in letter no.18822/UD-6(1)/2015-1 dated 16.09.2015 in rejecting the petitioner's appeal petition dated 11.09.2015 filed under Section 80-A of the Town and Country Planning Act as against locking, sealing and demolition decision of officials of the Corporation of Chennai for the building put up at No.36/2, New No.83, Sachithanandam Street, Kosapet, Chennai 600 012 by quashing the same and consequently, direct the respondents to regularise the building put up in the aforementioned property.

For petitioner Mr. D.S. Rajasekaran

For R1 Mr. N. Sakthivel, Government Advocate

For RR 2 & 3 Mr. V.C. Selvasekaran, Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI,J.,)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for respondents 2 and 3. 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 to quash the order dated 16 September 2015 passed by the first respondent, whereby and whereunder, the petitioner's appeal dated 11 September 2015 filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), has been rejected as premature and also for a direction to the respondents to regularise the building put up at No.36/2, New No.83, Sachithanandam Street, Kosapet, Chennai - 12.

3 The issue involved herein is as to whether the special revision under Section 80-A of the Act is maintainable against the decision taken under the provisions of Sections 56(2-A) and 57 (4) of the Act, without insisting on the locking and sealing of the premises.

4 This Division Bench, in the judgment delivered on 29th September, 2015 in Lalithkumar C. Soni - Vs. - Government of Tamil Nadu and others¹, considered the aforestated issue, in extenso and held as under:-

" (15). We therefore hold that a special revision petition under Section 80-A of the Act is maintainable before the Government against the decision taken by the appropriate Planning Authority in respect of locking and sealing the premises under sub Section (2-A) of Section 56 or under sub section (4) of Section 57, even before resorting to the act of locking and sealing. In short, sealing the premises is not a condition precedent for filing special revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Tamil Nadu Act 61 of 2008.

16. In the result, the impugned orders are set aside. The petitioners are given liberty to represent the special revision petitions under Section 80-A of the Act. In case of such re-presentation within a period of two weeks from today, every effort shall be taken by the Government to dispose of the matter within the statutory period.

17. In the upshot, we allow the Writ Petitions."

5 In such view of the matter, the impugned order is set aside

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

and the writ petition is allowed on the same terms. No costs.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Secretary to Government
Housing and Urban Development
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 - 3 The Executive Engineer
Enforcement Region - Central
Corporation of Chennai
II Cross Street
East Pullah Avenue
Shenoy Nagar, Chennai 600 030
- +2ccs to M/s.Martin Jeyakumar, Advocate, sr.53630, 54271
+1 cc to Government Pleader, sr.54260

सत्यमेव जयते

W.P. No.31268 of 2015

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