

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2015

CORAM:

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

W.P. No.31378 of 2015 and M.P. Nos.1 and 2 of 2015

B. Kamarunisha

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 Regional Deputy Commissioner
Chennai Corporation (North Zone)
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021
- 3 The Executive Engineer
Zone - V, Corporation of Chennai
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021
- 4 The Assistant Executive Engineer
Division - 53, Unit 12, Zone V
Corporation of Chennai
Chennai

Respondents

Writ Petition filed under Article 226 of the Constitution seeking a writ of certiorarified mandamus to call for the records relating to the proceedings of the first respondent in Letter No.18663/UD-6(2)/2015-1 dated 18.09.2015 and quash the same and forbearing the respondents from initiating any coercive action of de-occupation with regard to the petitioner's property at No.28, Dr.Vijayaragavalu Main Road, Old Washermanpet, Chennai 600 021.

For petitioner Mrs. S. Meenakumari

For R1

Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For RR 2-4

Mr. R. Arunmozhi, Standing Counsel

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. R. Arunmozhi, learned Standing Counsel, accepts notice for respondents 2 to 4. 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 18 September 2015 passed by the first respondent, whereby and whereunder, the petitioner's appeal 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 forbearing the respondents from initiating any coercive action of de-occupation with regard to the petitioner's property at No.28, Dr.Vijayaragavalu Main Road, Old Washermanpet, Chennai 600 021.

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.

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

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

5. In such view of the matter, the impugned order is set aside and the writ petition is allowed on the same terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary to Government
Housing and Urban Development
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Chennai.

- + 1 cc to Government Pleader Sr.54255
- + 1 cc to Mr.D. Balachandran, Advocate Sr.53950
- + 1 cc to Mr.R. Arunmozhi, Advocate sR.54102

W.P. No.31378 of 2015

KJI(CO)
Eu 14.10.15