

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.31433 of 2015
and M.P. No.1 of 2015

St. Antony's Church
represented by its Member Mr. Felix
No.45, Dhankotti Raja Street
Eakkattuthangal
Chennai 600 097

Petitioner

Vs

- 1 The Joint Commissioner (South) Office
Corporation of Chennai
(Enforcement Cell)
Adyar, Chennai 600 020
- 2 The Junior Engineer
Division - 170
Corporation of Chennai
Joint Commissioner South Office
Adyar
Chennai 600 020
- 3 The Assistant Executive Engineer
Unit - 40A
Corporation of Chennai
Joint Commissioner South Office
Adyar
Chennai 600 020
- 4 The Executive Engineer
TP (Enforcement)
Regional Joint Commissioner Office (South)
Adyar, Chennai 600 020

Respondents

Writ Petition filed under Article 226 of the Constitution seeking a writ of certiorarified mandamus calling for the records of respondents 1 to 4 in letter no.310/2015 dated 31.08.2015 and quash the same and consequently, direct the respondents 2 to 4 to conduct fresh enquiry.

For petitioner : Mr. T. Muthukumar

for M/s. P. Britto

For respondents: Mr. R. Arunmozhi, Standing Counsel

ORDER

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

Mr. R. Arunmozhi, learned Standing Counsel, accepts notice for the respondents.

2 The petitioner is stated to be a church, represented through its member, Mr. Felix. A writ petition was filed by the petitioner earlier in W.P.No.17783 of 2015, seeking a direction to the respondents to consider his representation dated 04 June 2015, filed in response to the notice dated 25 May 2015, wherein, he was called upon to produce the approved plan.

3 The said writ petition was disposed of by this Court vide order dated 22 June 2015, directing the authorities to consider the petitioner's representation before taking consequential action on the basis of the notice dated 25 May 2015.

4 It appears that after the disposal of the writ petition on 22 June 2015, no attempt was made by the petitioner to take any step in filing the requisite documents, as required by the authorities. Thereafter, as a sequitur, the authorities, considering the petitioner's representation dated 04 June 2015 filed earlier, as aforesaid, passed the impugned locking and sealing notice dated 31 August 2015 under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") calling upon the petitioner to demolish the unauthorised portion and restore the property in question to its original position, as it was, before the construction took place. Thereafter, the petitioner has submitted a representation again on 02 September 2015.

5 Be that as it may, the petitioner has not availed of the opportunity granted by this Court for producing the relevant documents and making a representation, after 22 June 2015. Now, the impugned notice has been issued by the authorities after a long period and as such, we are not inclined to interfere with the impugned notice, at this stage. Besides, the impugned notice is appealable before the Government under Section 80-A of the Act.

6 In such view of the matter, the writ petition is liable to be dismissed. However, if an appeal is preferred by the petitioner, it is open to the appellate authority to examine the appeal on its own merits and in accordance with law.

7 Resultantly, the writ petition stands dismissed. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

To

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+ 1 cc to Mr.P. Britto, Advocate SR.42370
+ 1 cc to Mr.R. Arunmozhi, Advocate Sr.54100

W.P. No.31433 of 2015

GGK(CO)
EU 20.10.15