

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM:

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

W.P.No.31578 of 2015
and
M.P.No.1 of 2015

1.N. Prapanna Kumar
2.N. Prasanna Kumar ... Petitioners

Vs

1. Government of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development Department
Fort St. George Chennai-9.
2. The Chennai Metropolitan Development Authority
Rep. by its Member Secretary
No.1 Gandhi Irwin Road Egmore
Chennai-8.
3. The Corporation of Chennai
Rep. by its Commissioner Ripon Buildings
Chennai-3. ... Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorarified mandamus calling for the records of 1st respondent in letter No.12966/UD-6(2)/2015-1 dated 18/09/2015 in rejecting Petitioners' appeal filed under Section 80-A of the Town and Country Planning Act as against locking and sealing and demolition decision of officials of the Chennai Metropolitan Development Authority for the building put up at Old No.95, New No.57, N.S.C. Bose Road, Chennai-79 by quashing the same and consequently direct the Respondents to regularise the building put up in the aforementioned property.

For Petitioner : Mr. R. Mohan

For Respondents : Mrs. A. Srijayanthi
Special Government Pleader for R.1
Mr. K. Raja Srinivas - R2

Mr. A. Nagarajan - R3

ORDER

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

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned counsel accepts notice for the second respondent. Mr. A. Nagarajan, 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 to quash the order of the first respondent dated 18 September, 2015 wherein 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 to the respondents to regularise the building put up in the aforementioned property.

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 29.09.2015, considered the aforestated issue, in extenso, in Lalithkumar C. Soni - Vs. - Government of Tamil Nadu and others¹ 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

¹ W.A.Nos. 16392 of 2015 batch.

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 that view of the matter, this writ petition is allowed and the impugned order is set aside on the same terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ra.

To

1. The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Fort St. George Chennai-9.
2. The Member Secretary
The Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road Egmore
Chennai-8.

3. The Commissioner
Corporation of Chennai
Ripon Buildings,
Chennai-3.

+1cc to Mr.R.Mohan, Advocate, S.R.No.54380
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.54907
+1cc to Mr.A.Nagarajan, Standing Counsel, S.R.No.54313
+1cc to the Government Pleader, S.R.No.54633

W.P. No.31578 of 2015

MSM(CO)
CA(15/10/2015)



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