

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.31606 of 2015

and

M.P.No.1 of 2015

M. Chandrasekar

Petitioner

Vs

1 The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai-9.

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

3 The Executive Engineer,
Zone V, Corporation of Chennai,
Royapuram, Chennai

4 The Asst. Executive Engineer,
Zone V, Unit 12, Corporation of Chennai,
Royapuram, Chennai.

5 The Assistant Engineer,
Zone V, Unit 12, Division -50,
Corporation of Chennai,
Royapuram, Chennai.

Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorarified mandamus calling for the records from the 1st respondent and quash the impugned proceedings in Letter No.17025/UD 6(2)/2015-1 dated 15.9.2015 issued by the 1st respondent and direct the 1st respondent to entertain the petitioners appeal dated 18.8.2015 under Section 80-A Tamilnadu Town and country Planning Act 1971 against the Locking Sealing and Demolition notice in

No.Dn.50/003/2015 dated 13.5.2015 of the Corporation of Chennai and dispose of the same on merits and in accordance with law

For Petitioner : Mr. N.R.AnathaRama Krishnan

For Respondents: Mrs. A. Srijayanthi
Special Government Pleader for R.1

Mr. A. Nagarajan - R2 to R5

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 respondents 2 to 5. 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 15 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 entertain the aforestated appeal.

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 others*¹ 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

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

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/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

ra.

To

1. The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Fort St. George, Chennai 600 009.

2. The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai 600 003.

3.The Executive Engineer,
Zone V, Corporation of Chennai,
Royapuram, Chennai.

4.The Assistant Executive Engineer,
Zone V, Unit - 12,
Corporation of Chennai,
Royapuram, Chennai.

5.The Assistant Engineer,
Zone V, Unit 12, Division 50
Corporation of Chennai, Roayapuram, Chennai.

+1 cc to Mr.N.R.AnanthaRama Krishnan, Advocate, sr.54499

+1 cc to Mr.A.Nagarajan, Advocate, sr.54311

+1 cc to Government Pleader, sr.54629

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msm co, kra 15/10