

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.31721 of 2015 and M.P. Nos.1 and 2 of 2015

Sri Rajasthani Jain Association
represented by its President
Mahaveer Chand Kothari
No.36, Ekambareswara Agraharam Street
Park Town, Chennai 600 003

...Petitioner

Vs

- 1 Government of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development, Secretariat,
Fort St. George
Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
Thalamuthu Natarajan Building
No.1, Gandhi Irwin road
Egmore, Chennai 600 008
- 3 The Regional Deputy Commissioner
Chennai Corporation (North Zone)
No.62, Basin Bridge Road
Chennai 600 021
- 4 The Executive Engineer
(Enforcement) RDC (North Office)
Zone V, Corporation of Chennai, Chennai
- 5 The Assistant Executive Engineer
Division - 59, Unit 14, Zone V
No.28, Seven Well Street
Chennai 600 001

...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.17120/UD6(1)/2015-1 dated 18.09.2015 and quash the same and forbearing the respondents from initiating any coercive action of locking, sealing and demolition with regard to the

petitioner's property at No.36, Ekambareswara Agraharam Street, Park Town, Chennai 600 003.

For petitioner	Mrs. S. Meenakumari
For R1	Mrs. A. Srijayanthi Special Government Pleader
For R2	Mr. K. Raja Srinivas, Standing Counsel
For RR 3-5	Mr. V.C. Selvasekaran, Standing Counsel

ORDER

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

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. Raja Srinivas, learned Standing Counsel, accepts notice for the second respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for respondents 3 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 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 locking, sealing and demolition with regard to the petitioner's property at No.36, Ekambareswara Agraharam Street, Park Town, Chennai 600 003.

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

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

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

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

cad

To

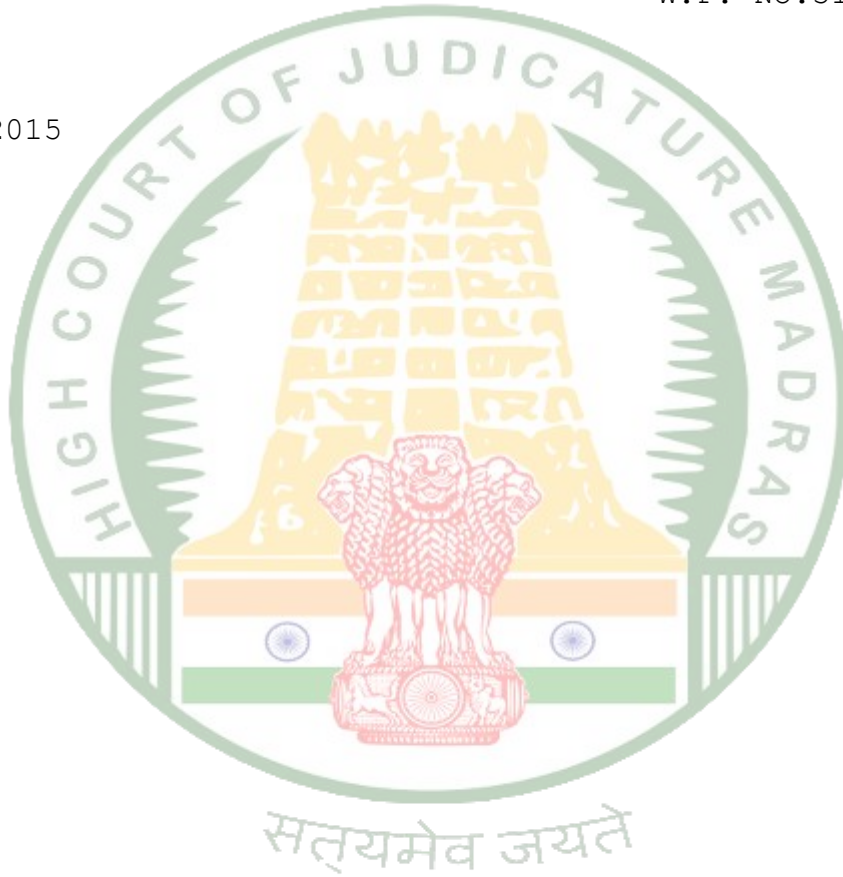
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+1 CC to MR. D.Balachandran ADVOCATE. SR.NO. 54423
+1 CC to MR.K. Raja Srinivas ADVOCATE. SR.NO. 54904
+2 CC to Govt.Pleader. SR.NO. 54628 & 54634

W.P. No.31721 of 2015

CO-BVR
JD 26/10/2015



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