

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and

THE HON'BLE MR. JUSTICE B. RAJENDRAN

W.P. No.32221 of 2015

and

M.P. Nos.1 to 3 of 2015

R.S. Rama Sarma
Secretary

Jains Eiffel Garden Flat Owners'

Welfare Association

(Regn.No.192 of 2004)

Old No.89 & 90, New No.167-A, Arcot Road

Vadapalani,

Chennai 600 026

....Petitioner

vs.

1 The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

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

3 Jain Housing and Construction Ltd.
82, High Gates, VIII and IX Floors
Santhome High Road
R.A. Puram
Chennai 600 028
represented by its Executive Director
Mr. Sandeep Mehta

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus by calling for the records comprised in the proceedings of the second respondent letter no.1526/UDI/2015-2 dated 21.09.2015 and quash the same and consequently, directing the second respondent to consider and dispose of the appeal dated 27.01.2015 on merits filed by the petitioner association under Section 80-A of the Tamil Nadu Town and Country Planning Act of 1971 against the order passed by the first respondent bearing No.EC3/11096/2014 dated 08.12.2014 within a stipulated time.

For petitioner : Mr. T.T. Ravichandran
For R1 : Mr. K. Raja Srinivas
Spl. Government Pleader
For R2 : Mrs. A. Srijayanthi
Special Government Pleader

O R D E R
(delivered by SATISH K. AGNIHOTRI, J.)

Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for the first respondent. Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the second 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 proceedings dated 21 September 2015 passed by the second 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 for a direction to the second respondent to consider and dispose of the petitioner's appeal dated 27 January 2015 on merits within a stipulated time.

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. A Division Bench of this Court, wherein, one of us (Satish K. Agnihotri, J.) was a Member, 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.

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

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

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

¹ W.A.Nos. 16392 of 2015 batch.

cad

To

1 The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

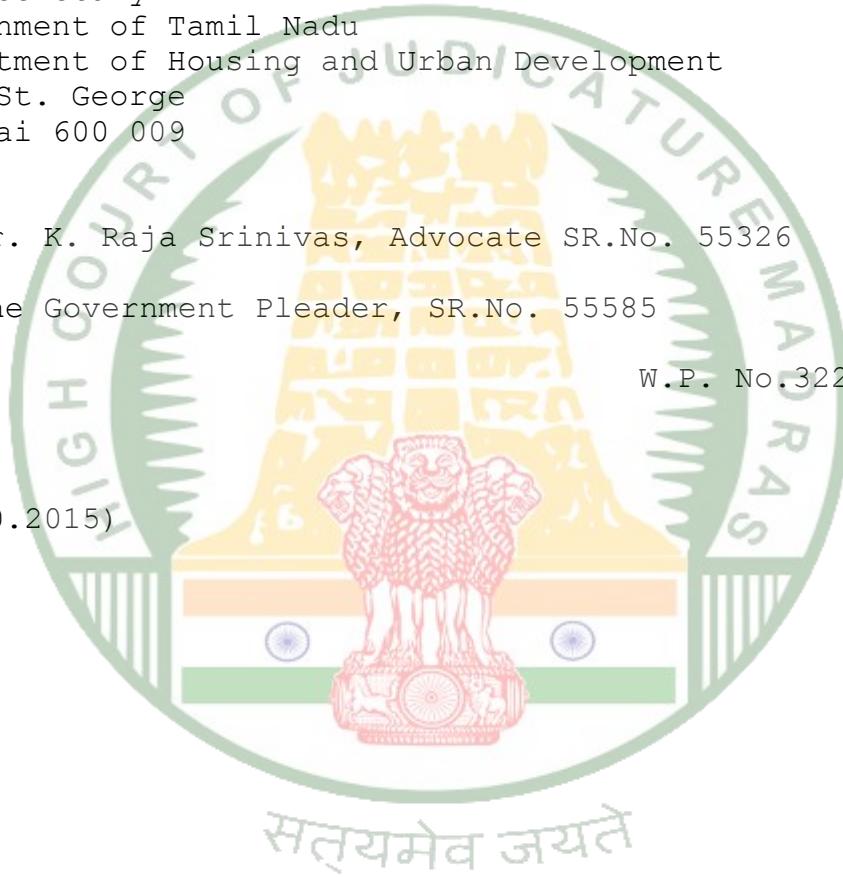
2 The Secretary
Government of Tamil Nadu
Department of Housing and Urban Development
Fort St. George
Chennai 600 009

1 CC to Mr. K. Raja Srinivas, Advocate SR.No. 55326

1 CC to the Government Pleader, SR.No. 55585

W.P. No.32221 of 2015

SKV (CO)
PSI (16.10.2015)



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