

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.32237 of 2015 and M.P. Nos.1 and 2 of 2015

J. Priscilla Pandian

..Petitioner

vs.

1 The State of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Fort St. George
Chennai 600 009

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

..Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the order of the first respondent order made in Letter No.18488/UD-VI(1)/2015-1 dated 22.09.2015 in rejecting the petitioner's Section 80-A appeal filed under the Town and Country Planning Act, as against locking and sealing decision of Corporation of Chennai for the building premises at No.9, Choolaimedu High Road, Choolaimedu, Chitra Avenue "Shruthi Block", Chennai - 94 in T.S. No.174, 183 and 189, Block No.16 of Puliur Village, by quashing the same and consequently, direct the respondents to regularise the building in the aforementioned property.

For petitioner : Mr. L. Chandrakumar

For R1 : Mrs. A. Srijayanthi
Special Government Pleader

For R2 : Mr. K. Raja Srinivas, Standing Counsel

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned Standing Counsel, 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 order dated 22 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 for a direction to the respondents to regularise the building at No.9, Choolaimedu High Road, Choolaimedu, Chitra Avenue, Shruthi Block, Chennai - 94 in T.S. No.174, 183 and 189, Block No.16 of Puliur Village.

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-representation 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. Connected Miscellaneous Petitions are closed.

cad

Sd/-
Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Secretary
Housing and Urban Development Department
Fort St. George
Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

+1 C.C. To MR.K.Raja Shrinivas, Advocate in SR.NO.55327

+1 C.C. To MR.L.Chandrakumar, Advocate in SR.NO.55449

+1 C.C. To Government Pleader in SR.NO.55584

W.P.No.32237 of 2015

CTK(CO)
sd : 20/10/2015



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