

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

CORAM:

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

W.P.No.32656 of 2015
and
M.P.Nos.1 & 2 of 2015

Ram Kishore Soni Petitioner

Vs

- 1 The Commissioner,
Corporation of Chennai, Rippon Buildings,
Chennai-3.
 - 2 The Executive Engineer,
O/o.The Regional Joint Commissioner (Central)
Town Planning Enforcement, Corporation of Chennai
Zone VIII, 2nd Cross St. (E), Pulla Avenue,
Shenoy Nagar, Chennai-30
 - 3 The State of Tamilnadu
rep. by its Secretary,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-9.
- ... Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorarified mandamus calling for the records relating to the order of the 3rd respondent made in Letter No.11810/ UD-6(1)/ 2015-1 dated 18.9.2015 in rejecting petitioner's Section 80-A appeal filed under Town and country Planning Act as against Locking and Sealing decision of Corporation of Chennai for the building put up at No.823, G Block, First Street 11th Main Road, Anna Nagar , Chennai-40 , by quashing the same and consequently direct the respondents to regularise the building put up in the aforementioned property.

For Petitioner : Mr. L. Chandrakumar
For Respondents : Mr. R. Arunmozhi - R1 & R2
Mrs. A. Srijayanthi,
Special Government Pleader -R3

ORDER

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

Mr R. Arunmozhi, learned counsel, accepts notice for the respondents 1 and 2. Mrs. A.Srijayanthi, learned Special Government Pleader, 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 18.09.2015 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 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.

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

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 petitions are closed.

ra.

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

- 1 The Commissioner,
Corporation of Chennai, Rippon Buildings,
Chennai-3.
- 2 The Executive Engineer,
O/o.The Regional Joint Commissioner (Central)
Town Planning Enforcement, Corporation of Chennai
Zone VIII, 2nd Cross St. (E), Pulla Avenue,
Shenoy Nagar, Chennai-30
3. The Regional Deputy Commissioner,
Corporation of Chennai (North Zone)
62, Basin Bridge, Old Washermenpet,
Chennai 21.
4. The Executive Engineer,
Zone V Corporation
62 Basin Bridge, Old Washermenpet,
Chennai 21.

+ 1 cc to M/s.R.Arunmozhi, Advocate SR 56384

+ 1 cc to Mr.L.Chandrakumar, Advocate SR 56589

+ 1 cc to the Govt.Pleader SR 57146

ug(co)
prk27/10

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