

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.32882 of 2015
and
M.P.Nos.1 & 2 of 2015

Dixit H. Jain

... Petitioner

Vs

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

2 The Commissioner,
Corporation of Chennai, Rippon Building
Chennai-3.

3 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.

... Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorarified mandamus calling for the records of 1st respondent in Letter No.9339/UD-VI(1)/ 2015-1 dated 5.6.2015 in rejecting petitioner's Appeal filed under Section 80-A of the Tamilnadu Town and country Planning Act as against Locking and Sealing decision of Corporation of Chennai for the building put up at New NO.19 and Old No.09, Nattu Pillayar Koil Street, Sowcarpet, Chennai 600 079 by quashing the same and consequently direct the respondents to regularise the building put up in the aforementioned property.

For Petitioner : Mr. B. Vijay
For Respondents :Mr. R. N. Sakthivel
Govt. Advocate - R1
Mr. A. Nagarajan - R2 to R4

ORDER

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

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the first respondent. Mr. A. Nagarajan, learned counsel, accepts notice for the respondents 2 to 4. 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 05.06.2015 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-III)

True Copy

Sub-Assistant Registrar

To

- 1 The Secretary to the
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Chennai-3.
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62 Basin Bridge,
Old Washermenpet, Chennai-21.
- 4 The Executive Engineer,
Zone V Corporation, 62 Basin Bridge,
Old Washermenpet, Chennai-21.

+ 1 cc to Mr.B.Vijay, Advocate SR 56516

+ 1 cc to Mr.A.Nagarajan, Advocate SR 56320

+ 1 cc to Govt.Pleader SR 57145

vgi(co)
prk27/10

W.P.No. 32656 of 2015