

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.32961 of 2015 and M.P. No.1 of 2015

Irudhaya Antony Lourdu @ Lourdu

Petitioner

Vs

The Secretary to Government
Housing and Urban Development Department
Secretariat
Chennai 600 009

Respondent

Writ Petition filed under Article 226 of the Constitution seeking a writ of certiorari, calling for the records impugned dismissal of the appeal by the respondent in Letter No.12822/UD-VI(1)/2015-3 dated 07.09.2015 and quash the same as illegal.

For petitioner Mr. V. Lakshminarayanan
for M/s. K. Bommuraj

For respondent Mr. N. Sakthivel, Government Advocate

ORDER

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

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the 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 07 September 2015 passed by the 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 on the ground that the same can be preferred only after the process of locking and sealing has been completed.

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 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 matter is remitted back to the respondent for consideration afresh on merits and in accordance with law within a period of two weeks from today.

6. The writ petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

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Sub-Assistant Registrar

cad

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

To

The Secretary to Government
Housing and Urban Development Department
Secretariat
Chennai 600 009

+1 cc to Government Pleader sr.57157
+2 ccs to Mr.K.Bommuraj, Advocate sr.56716

W.P. No.32961 of 2015

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