

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM

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

THE HON'BLE MR.JUSTICE K.K. SASIDHARAN

W.P. No.32970 of 2015

and

M.P. No. 1 of 2015

R.M. Balasubramanian

...Petitioner

Vs.

- 1 State of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Fort St. George
Chennai 600 009
- 2 Chennai Metropolitan Development Authority (CMDA)
represented by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 3 Corporation of Chennai
represented by its Executive Engineer
Zone - 15, Sholinganallur
Chennai 600 119

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the entire records pertaining to the impugned notice No.B2/3737/2015 dated 03.10.2015 issued by the third respondent herein and quash the same.

For petitioner : Mr. R. Subramanian
for M/s. A. Devnarendran

For R1 : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

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

For R3 : Mr. R. Arunmozhi,
Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for the second respondent. Mr. R. Arunmozhi, learned Standing Counsel, 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 The challenge in this writ petition is to the notice dated 03 October 2015 issued by the third respondent.

3 Questioning the de-occupation notice dated 21 August 2015, the petitioner had earlier filed W.P. No.27080 of 2015. This Court, while disposing of the said writ petition vide order dated 31 August 2015, recording the filing of statutory appeal challenging the de-occupation notice, directed the appellate authority to decide the appeal within the statutory period prescribed under the provisions of law and the interim application within a period of two weeks, besides ordering status quo to be maintained for a period of two weeks, enabling the appellate authority to consider and decide the application for interim relief.

4 We are informed that despite a clear mandate by this Court, as aforestated, the appellate authority has not taken care to consider and pass orders even on the application for interim relief within the specified time. In the meantime, the impugned notice dated 03 October 2015 has been issued by the

third respondent, informing the petitioner that inasmuch as the period of fifteen days granted by this Court had expired and he has not produced any material to stay the de-occupation notice, recommendation would be given to the executing department to vacate the petitioner from the premises in question.

5 The contention of the learned counsel for the petitioner is that the petitioner cannot be blamed for the failure on the part of the appellate authority in taking a decision on the interim application. In fact, the appellate authority is in contempt of the order passed by this Court on 31 August 2015 in W.P. No.27080 of 2015. Thus, a direction be reiterated to consider the petitioner's interim application at the earliest and till such time, the impugned notice may not be given effect to.

6 According to the learned Special Government Pleader, the appellate authority will consider the petitioner's interim application at the earliest and till such time, the impugned notice will not be given effect to.

7 In view of the aforesaid submission of the learned Special Government Pleader, it is ordered accordingly.

The writ petition stands disposed of accordingly. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

cad

To

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

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

3 The Executive Engineer
Corporation of Chennai
Zone - 15, Sholinganallur
Chennai 600 119

1 CC to Mr. R. Arunmozhi, Advocate SR.No. 50946

1 CC to the Government Pleader, SR.No. 57756

1 CC to Mr. K. Raja Srinivas, Advocate SR.No. 57098

1 CC to Mr.A.Dev Narayanan, Advocate SR. No. 56825

W.P. No.32970 of 2015

VSN (CO)
PSI (02.11.2015)



WEB COPY