

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2015

CORAM

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

W.P. No.33179 of 2015 and M.P. Nos.1 and 2 of 2015

S. Asaithambi

Petitioner

Vs.

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

2 The Commissioner
Corporation of Chennai
Ripon Building
Chennai 600 003

3 The Regional Deputy Commissioner - Central
Corporation of Chennai
II Cross Street
Pulla Avenue
Shenoy Nagar
Chennai 600 030

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for records relating to the impugned order passed by the first respondent herein in letter no.25157/UD-VI(1)2013-8 dated 21.04.2015 in rejecting the petitioner's appeal filed under Section 80-A of the Town and Country Planning Act as against the locking and sealing decision of the Corporation of Chennai for the building put up at Old Door No.94, New Door No.42, Old Mambalam Road, Saidapet, Chennai 600 015 and quash the same and consequently, direct the respondents to regularise the building put up in the aforementioned property

For petitioner

Mrs. Hema Sampath, Sr. Counsel
for Mr. H. Adaikala Arockiaraj

For R1

Mrs.A.Srijayanthi,Spl.Govt. Pleader

For RR 2 & 3

Mr. A. Nagarajan, Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. A. Nagarajan, learned Standing Counsel, accepts notice for respondents 2 and 3. 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 challenging the order dated 21 April 2015 passed by the first respondent-Government rejecting the appeal preferred by the petitioner challenging the de-occupation notice dated 09 September 2015 issued by the Chennai Corporation under Section 56(2)(iii) and 2(A) of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 The learned Senior Counsel appearing for the petitioner, relying on the decision of this Division Bench in Lalithkumar C. Soni vs. Government Tamil Nadu and Others¹, wherein, it was held that sealing of the premises is not a condition precedent for filing a special revision petition under Section 80-A of the Act, submits that the impugned order rejecting the appeal filed under Section 80-A of the Act on the ground that no appeal is maintainable for want of locking and sealing of the premises, is erroneous.

4 The learned Special Government Pleader fairly submits that the matter may be remitted back to the appellate authority for re-consideration.

5 On a perusal of the impugned order, we notice that the appellate authority, having rejected the petitioner's appeal on the ground that the premises has not been locked and sealed, has also delved on merits of the matter. If the appeal is rejected as being premature, it was not at all incumbent upon the appellate authority to make any observation qua merits of the matter or take any decision on merits.

6 In such view of the matter, the impugned order passed by the appellate authority is set aside and the matter is remitted back to the appellate authority to re-consider all the issues afresh, including the merits, in the light of the aforestated decision.

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

7 The writ petition stands disposed of accordingly.
Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

cad
To

- 1 The Secretary
Government of Tamil Nadu
Housing and Urban Development Department
Fort St. George, Chennai 600 009
 - 2 The Commissioner
Corporation of Chennai
Ripon Building, Chennai 600 003
 - 3 The Regional Deputy Commissioner - Central
Corporation of Chennai
II Cross Street
Pulla Avenue, Shenoy Nagar
Chennai 600 030
- +1 cc to Government Pleader (sr.57510)
+1 cc to M/s.H.Adaikala Arockiaraj, Advocate (sr.57390)
+1 cc to Mr.A.Nagarajan, Advocate (sr.57206)

sai (co)
cp 2/11/2015

सत्यमेव जयते W.P. No.33179 of 2015

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