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.33224 of 2015
and
M.P.No.1 of 2015

S. Abdul Gaffoor ...Petitioner

Vs

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

2 The Member Secretary, Chennai Metropolitan
Development Authority,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwyn Road, Egmore,
Chennai-8. ...Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of certiorarifed mandamus calling for the records of 1st respondent in Letter No.18139/ UD-6(1)/ 2015-1 dated 10.9.2015 in rejecting petitioner Appeal filed under Section 80-A of the Town and country Planning Act as against Locking and Sealing decision of 2nd respondent for the building put up at Old No.6/7 New No.12/7 Ambersen Street, Chennai-1, by quashing the same and consequently direct the respondents to regularise the building put up in aforementioned property.

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For Petitioner : Mr.B. Vijay

For Respondents : Mr. P.S.Sivashanmugasundaram
Special Government Pleader for R.1
Mr. K. Raja Srinivas - R2

ORDER

(Order of the Court was 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 counsel accepts notice for the second 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 10 September, 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") was rejected as being 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/appeal 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 others[1] 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

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

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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 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 petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

ra.

To

The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development Department
Fort St. George, Chennai 600 009.

1 CC to Mr.B. Vijay, Advocate SR.No. 56722

1 CC to Mr. K. Raja Srinivas , Advocate SR.No. 57052

1 CC to the Government Pleader, SR.No. 57763

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PPA (CO)
PSI (02.11.2015)

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