

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.33512 of 2015 and M.P. No.1 of 2015

M.B. Habeebur Rahman

...Petitioner

Vs.

1 Government of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai-9.

2 Corporation of Chennai,
Rep. by its Commissioner,
Rippon Buildings,
Chennai-3.

3 The Executive Engineer,
Enforcement-Region (Central),
Corporation of Chennai,
2nd Cross Street, Shenoy Nagar
Chennai-30.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of 1st respondent in Letter No.17233/ UD-6(1)/ 2015-1 dated 16.9.2015 in rejecting petitioner's Revision Petition filed under Section 80-A of the Town and country Planning Act as against Locking and Sealing and Demolition decision of officials of the Corporation of Chennai for the building put up at Old No.53, New No.40, Muthiah Street, Teynampet Chennai-600 086 , by quashing the same and consequently direct the respondents to defer the Lock and Seal

action for the building put up in the aforementioned property.

For petitioner : Mr. R. Mohan
For R1 : Mrs.A.Srijayanthi,
Spl.Govt. Pleader
For RR 2 & 3 : Mr.R.Arunmozhi,
Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. R. Arunmozhi, learned 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 16 September 2015 passed by the first respondent-Government rejecting the appeal preferred by the petitioner challenging the locking, sealing and demolition notice dated 3 August 201 issued by the Chennai Corporation under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 The learned counsel 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 petitioner's appeal filed under Section 80-A of the Act on the ground that the same is not 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.

¹ W.A. Nos.16392 of 2015 etc. batch

5 In view of the aforesaid submission made by the learned Special Government Pleader, 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 in the light of the aforestated decision.

6 The writ petition stands disposed of accordingly. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George
Chennai 600 009.
- 2 The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai
- 3 The Executive Engineer,
Enforcement-Region (Central),
Corporation of Chennai,
2nd Cross Street, Shenoy Nagar,
Chennai-30.

- 1 CC to the Government Pleader, SR.No. 57509
1 CC to Mr. R. Mohan, Advocate SR.No. 57164
1 CC to Mr.R.Arunmozhi, Advocate SR.No. 57208

W.P. No.33512 of 2015

PSI (03.11.2015)