

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.35524 of 2015 and M.P. No.1 of 2015

M. Uttamchand Bafna

Petitioner

Vs.

- 1 The Government of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Secretariat
Fort St. George, Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 3 The Regional Deputy Commissioner
Corporation of Chennai (North)
having office at No.62, Basin Bridge Road
Old Washermanpet, Royapuram
Chennai 600 021
- 4 The Executive Engineer - Enforcement
RDC (North Office)
Zone V, Corporation of Chennai
Chennai 600 021

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at New No.90, Old No.288, Thambu Chetty Street, Chennai 600 001, particularly by way of locking and sealing and demolition, pending final determination of the appeal dated 06.10.2015, pending with the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

For petitioner Mr. D. Balachandran

For R1

Mrs. A. Srijayanthi
Special Government Pleader

For R2

Mr. K. Raja Srinivas, Standing Counsel

For RR 3 & 4

Mr. A. Nagarajan, Standing Counsel

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for the second respondent. Mr. A. Nagarajan, learned Standing Counsel accepts notice for respondents 3 and 4. 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 a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at New No.90, Old No.288, Thambu Chetty Street, Chennai 600 001, particularly, by way of locking and sealing and demolition, pending final determination of the appeal (sic) application dated 06 October 2015, filed before the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 From a perusal of the records, it is seen that the second respondent, viz., Chennai Metropolitan Development Authority, has issued a locking, sealing and demolition notice on 07 September 2015 under Sections 56 and 57 read with Section 85 of the Act against the petitioner. Thereagainst, the petitioner has preferred an application before the first respondent under Section 80-A of the Act on 06 October 2015, which is pending consideration. It is further seen that along with the said application, the petitioner has also filed an application for interim stay in terms of the provisions of Section 80-A(3) of the Act.

4 Without going into the merits of the case, we are of the considered view that if the application, as aforestated, is filed along with the application for interim relief, the officers are well advised to consider the application for interim relief at the earliest, preferably within a period of two weeks, to avoid further complications.

5 Accordingly, we direct the first respondent to consider the petitioner's application for interim relief as early as possible, preferably within a period of two weeks and also to consider the petitioner's main application within the statutory period prescribed under the provisions of law, on its own merits and in accordance with law, in the light of the order dated 29th September 2015 passed by a Division Bench of this Court,

wherein, one of us (Satish K. Agnihotri, J.) was a Member, in Lalithkumar C. Soni Vs. Government of Tamil Nadu and others¹. It is made clear that for a period of two weeks from today, i.e., 04 November 2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties and the petitioner is restrained from making any further construction in the property in question.

6 With the above directions, the writ petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

cad
To

- 1 The Secretary
Government of Tamil Nadu
Housing and Urban Development Department
Secretariat
Fort St. George, Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 3 The Regional Deputy Commissioner
Corporation of Chennai (North)
having office at No.62, Basin Bridge Road
Old Washermanpet, Royapuram
Chennai 600 021
- 4 The Executive Engineer – Enforcement
RDC (North Office)
Zone V, Corporation of Chennai
Chennai 600 021

+1 cc to Mr.D.Balachandran, Advocate, sr.60411
+1 cc to Mr.K.Rajashrinivas, Advocate, sr.60465
+1 cc to Mr.A.Nagarajan, Advocate, sr.60460
+1 cc to The Government Pleader, sr.61163

W.P. No.35524 of 2015

gr co
kra 19/11/2015

1 W.PNos. 16392 of 2015 batch.