

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM:

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

W.P. No.35793 of 2015 and M.P. Nos.1 & 2 of 2015

- | | | |
|-----|---|-------------|
| 1 | P. Ravichandran | |
| 2 | P. Velumani | Petitioners |
| vs. | | |
| 1 | State represented by
The Principal Secretary to Government
Housing and Urban Development Department
Secretariat
Chennai 600 009 | |
| 2 | The Commissioner-Corporation of Chennai
Ripon Building
Chennai 600 003 | |
| 3 | The Executive Engineer -
Enforcement Region Central)
Corporation of Chennai
II Cross Street - East
Pulla Avenue
Shenoy Nagar, Chennai 600 030 | |
| 4 | The Assistant Executive Engineer
Corporation of Chennai
(Unit 21) II Cross Street (East)
Pulla Avenue
Shenoy Nagar
Chennai 600 030 | |
| 5 | The Junior Engineer (Division 94)
Corporation of Chennai
Regional Office - Central
II Cross Street (East)
Pulla Avenue
Shenoy Nagar, Chennai 600 030 | Respondent |

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to impugned notice No.REGIONCENTRAL/TPENF/0036/2015 dated 10.03.2015 issued by the

respondents 3 to 5, quash the same and consequentially, direct the respondents 2 to 5 not to interfere with the petitioners' peaceful possession and enjoyment of the house bearing no.30, North Jaganathan Nagar, I Street, Villivakkam, Chennai 600 049 till disposal of the appeal petition dated 11.02.2015 filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 on the file of the first respondent, viz., the Principal Secretary to Government, Housing and Urban Development Department.

For petitioners: Mr. R. Bharathkumar

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

For RR 2-5 :Mr. V.C. Selvasekaran
Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for respondents 2 to 5. With their consent, the writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed assailing the de-occupation notice dated 10 March 2015 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") and for a direction to the respondents 2 to 5 not to interfere with the petitioners' peaceful possession and enjoyment of the house bearing no.30, North Jaganathan Nagar, I Street, Villivakkam, Chennai 600 049, till disposal of the appeal petition (sic) application dated 11 February 2015 filed under Section 80-A of the Act on the file of the first respondent.

3 The learned counsel for the petitioners submits that being aggrieved by the locking, sealing and demolition notice dated 29 January 2015, the petitioners have preferred an application invoking the special power of the Government under Section 80-A of the Act on 11 February 2015. Along with the said application, an application for interim relief has also been filed in view of provisions of Section 80-A(3) of the Act. It is further contended that the Government is obliged to dispose of the said application preferred under Section 80-A of the Act within a period of 90 days from the date of receipt of the same. However, the said period of 90 days expired long back. Yet, the Government has not taken any decision on the said application.

In the meantime, the Chennai Corporation has issued the impugned de-occupation notice dated 10 March 2015, served on the petitioners on 22 October 2015.

4 The learned Special Government Pleader appearing for the first respondent fairly submits that the petitioners' application preferred under Section 80-A of the Act will be considered and decided on merits and in accordance with law, at the earliest.

5 We have been repeatedly observing that the applications made under Sections 80-A of the Act are required to be considered within the statutory period to avoid unnecessary complications to the applicants. In the case on hand, more than 90 days have elapsed from the date of filing the said application. Yet, no decision has been taken by the Government on the application preferred by the petitioners under Section 80-A of the Act.

6 In such view of the matter, we direct the first respondent to take a decision on the petitioners' aforesated application at the earliest, preferably, within a period of three weeks from today, on its own merits and in accordance with law, in the light of the order dated 29 September 2015 passed by a Division Bench of this Court in Lalithkumar C. Soni vs. Government of Tamil Nadu and Others¹. In the meantime, the impugned de-occupation notice dated 10 March 2015 shall remain suspended.

7 The writ petition stands disposed of accordingly. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Principal Secretary to Government
State represented by
Housing and Urban Development Department
Secretariat
Chennai 600 009

1 W.P.Nos.16392 of 2015

- 2 The Commissioner-Corporation of Chennai
Ripon Building
Chennai 600 003
- 3 The Executive Engineer - Enforcement Region Central)
Corporation of Chennai
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Regional Office - Central
II Cross Street (East)
Pulla Avenue
Shenoy Nagar, Chennai 600 030

+1cc to Mr.R. Bharathkumar, Advocate, S.R.No.61592

+1cc to the Government Pleader, S.R.No.61440

AR II
EU(23/11/2015)

W.P. No.35793 of 2015

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