

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2015

CORAM:

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

W.P. Nos.36055 to 36057 and M.P. Nos.1 & 2 of 2015

V. Manivannan
Rep by his power of attorney
B.Kandasamy Petitioner in WP No.36055 of 2015

R. Vasantha Kumar
Rep by his father and power
of attorney A.Rajarathinam Petitioner in WP No.36056 of 2015

P. Ashok Kumar
Rep by his father and power
of attorney S.Ponnusamy Petitioner in WP No.36057 of 2015

vs.

The Deputy Director (I/c)
Town and Country Planning
Salem Region
No.6, Sannadhi Street
Subramaniya Nagar
Suramangalam
Salem 636 005

Respondent in WP Nos.35055 to 36057 of
2015

Writ Petitions in WP Nos. 36055 and 36057 of 2015 filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relating to orders made in Na.Ka.No.148/15 Proc.3 dated 14.08.2015 and the consequential orders made in Na.Ka.No.148/15 Proc.3 dated 08.10.2015, and 9.10.2015 passed by the respondent and quash the same and forbear the respondent from locking and sealing the Flat No. A, 2nd floor, , and and Flat No.B, 1st floor, respectively Sree Kumaran Towers A Block situated at Door No.138, Perundurai Main Road, Thindal Post, Erode 638 012 in

pursuance of the impugned orders.

Writ Petition in WP No. 36056 of 2015 filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records relating to orders made in Na.Ka.No.148/15 Proc.3 dated 14.08.2015 and the consequential orders made in Na.Ka.No.148/15 Proc.3 dated 08.10.2015, and 8.10.2015 passed by the respondent and quash the same and forbear the respondent from locking and sealing the Flat No. B-11, Sree Kumaran Towers B Block situated at Door No.138, Perundurai Main Road, Thindal Post, Erode 638 012 in pursuance of the impugned orders.

For petitioner in
all the WPs

Mr. G. Ethirajulu

For respondent in
all the WPs

Mrs.A. Srijayanthi
Special Government Pleader

COMMON ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the respondent. With the consent of the learned counsel for the parties, the writ petitions are taken up for final disposal, at the admission stage itself.

2 These writ petitions are filed assailing the legality and validity of the notices dated 14 August 2015 issued by the respondent under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") and also the consequential orders dated 08 October 2015 and 09 October 2015 passed by the respondent. Besides, a direction is also sought to forbear the respondent from locking and sealing the premises which are under the occupation of the petitioners, in pursuance of the impugned orders.

3 The learned counsel for the petitioners, has, inter alia contended that the respondent has issued notice only to the promoter of the buildings in question viz., Sree Kumaran Promoters and not to the petitioners who are owners/occupiers and as such, the proceedings impugned in these writ petitions have been initiated without following the procedure contemplated under the provisions of the Act. Thus, the impugned proceedings are liable to be set aside.

4 Be that as it may, it is not that the petitioners do not have any other remedy, except assailing the impugned notices by filing these writ petitions. The impugned notices passed under Sections 56 and 57 of the Act, may be assailed under Section 80-A of the Act before the Government. Needless to state that under Section 80-A(3) of the Act, there is also a provision for seeking interim relief. As such, there is no reason to bypass or sidestep the concerned jurisdiction to invoke the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5 We, accordingly, dismiss the writ petitions, reserving liberty to the petitioners to take recourse to the appropriate forum, if so advised. For a period of two weeks from today, there shall be an order of status quo as obtained today, in respect of the properties in question, to enable the petitioners to prefer applications as against the impugned notices, if so advised. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

True Copy

Sub Assistant Registrar

To

The Deputy Director (I/c)
Town and Country Planning
Salem Region
No.6, Sannadhi Street
Subramaniya Nagar
Suramangalam
Salem 636 005

+lcc to Mr.G.Ethirajulu, Advocate Sr.61390
+lcc to The Government pleader, Sr.61798

W.P. Nos.36055 to 36057 of 2015

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srg 19/11/2015

06.11.2015



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