

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE DR.JUSTICE P. DEVADASS

W.P.No.36088 of 2015 and M.P. Nos.1 & 2 of 2015

1. Jugni
2. Suresh T. Jain
3. Raju T. Jain
4. Pushpa Bai.

..Petitioners

Vs.

- 1 The Government of Tamil Nadu
represented by its Commissioner-cum-
Secretary to Government
Housing and Urban Development Department
Secretariat
Chennai 600 009

- 2 Chennai Metropolitan Development Authority
represented by its Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

..Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified mandamus calling for the records of the 2nd respondent in Letter No. EC/EA/N-1/8734/2015 dated 29.7.2015 against building situated at Old No.349 New No.336 Mint Street Chennai 79 and quash the same and consequently direct the 1st respondent to consider the petitioners' appeal u/s 80-A dated 26.8.2015 in accordance with law.

For petitioners Mr. R. Ganeshkumar

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

For R2 Mr. K. Raja Srinivas, Standing Counsel

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S.Sivashanmugasundaram, learned Special Government Pleader, appears for the first respondent. Mr.K Raja Srinivas, learned Standing Counsel, appears for the second respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2. The petitioners have come up with the instant writ petition, assailing the legality and validity of the locking, sealing and demolition notice dated 29 July, 2015 issued by the second respondent, viz., Chennai Metropolitan Development Authority under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") and also to direct the first respondent to consider their appeal (sic) application dated 26 August 2015 filed under Section 80-A of the Act, challenging the aforesaid locking, sealing and demolition notice.

3. Concededly, assailing the impugned locking, sealing and demolition notice dated 29 July 2015, the petitioners have already preferred an application before the first respondent-Government under Section 80-A of the Act on 26 August 2015, which is pending consideration. It is also not in dispute that along with the said application, the petitioners have also filed an application for interim stay in terms of the provisions of Section 80-A(3) of the Act. Thus, when the order impugned herein is already under assail before the first respondent-Government, no adjudication is required at this stage.

4. However, we are of the considered view that if an application, as aforesaid, 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 petitioners' application for interim relief as early as possible, preferably within a period of two weeks and also to consider the petitioners' 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., 17 November 2015, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties and the petitioners are 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 are closed.

Ra

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

1 The Commissioner-cum-Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat
Chennai 600 009

2 The Member Secretary,
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

+1 C.C. To MR.Jagadish Chandra, Advocate in SR.NO.62259

+1 C.C. To MR.K.Raja Shrinivas, Advocate in SR.NO.62539

W.P.No.36088 of 2015

VGI (CO)
sd : 26/11/2015



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