

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. No.36126 of 2015
and
M.P. No.1 of 2015

S. Murtuza

...Petitioner

Vs.

1 The State 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
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 mandamus forbearing the respondents 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolition of the petitioner's premises at Old No.205, New No.258, Thambu Chetty Street, Chennai 600 001 under the Tamil Nadu Town and Country Planning Act, till the disposal of the petitioner's appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act dated 16.10.2015, pending on the file of the first respondent.

For petitioner : Mrs. N.R. Jasmine Padma
For R1 : Mrs. A. Srijayanthi
Special Government Pleader
For R2 : Mr. K. Raja Srinivas,
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. 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 1 and 2 from in any manner initiating any coercive action of locking, sealing and demolition of the petitioner's premises at Old No.205, New No.258, Thambu Chetty Street, Chennai 600 001 under the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), till the disposal of his appeal (sic) application filed under Section 80-A of the Act, pending on the file of the first respondent.

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 01 October 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 16 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 At this juncture, it is worth pointing out that as against the notice issued under Section 56 and/or 57 of the Act, what lies under Section 80-A before the Government is only an

"application" and not an "appeal", as has been mistakenly used by the authorities. Under the said provision, on an application, the Government is vested with special powers to modify, annul or reverse or remit back for fresh consideration, the notices issued by the appropriate planning authority under Section 56(2-A) or Section 57(4), if it thinks fit.

5 Be that as it may, without going into the merits of the case, we are of the considered view that if the 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.

6 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., 06 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.

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

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

cad

¹ W.P.Nos. 16392 of 2015 batch.

To

1 The Secretary
State of Tamil Nadu
Housing and Urban Development Department
Secretariat
Fort St. George, Chennai 600 009

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

1 CC to Mr.L.Chandrakumar, Advocate SR.No. 61364

1 CC to Mr. K. Raja Srinivas, Advocate SR.No. 61686

1 CC to the Government Pleader, SR.No. 61800

W.P. No.36126 of 2015

TEJ (CO)
PSI (18.11.2015)



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