

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. 36178 of 2015 and M.P. No.1 of 2015

M. Gangadurai

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 Chennai Metropolitan Development Authority
represented by its Member Secretary
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 first respondent in Letter No.9205/UD-VI (1)-2014-3 dated 13.05.2015 in rejecting the petitioner's appeal petition filed under Section 80-A of the Town and Country Planning Act as against locking and sealing decision of the second respondent pertaining to the petitioner's building put up at Plot No.90, Door, Door No.10/43, Gandhi Road, West Tambaram, Chennai 600 045, quashing the same and consequently, direct the respondents to forbear them from in any way interfering with the aforesaid building particularly by way of locking, sealing and demolition of the same.

For petitioner Mr. D.S. Rajasekaran

For R1 Mrs. A. Srijyanthi
Special Government Pleader

For R2 Mr. K. Raja Srinivas, Standing Counsel

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mrs. A. Srijayanth, 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 challenging the order dated 13 May 2015 passed by the first respondent-Government rejecting the appeal (sic) application preferred by the petitioner challenging the locking, sealing and demolition notice dated 24 October 2013 issued by the second respondent under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 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.

4 Be that as it may, the learned counsel for the petitioner, relying on the decision of a Division Bench of this Court in Lalithkumar C. Soni vs. Government Tamil Nadu and Others¹, wherein, it was held that sealing of the premises is not a condition precedent for filing a special revision petition under Section 80-A of the Act, submits that the impugned order passed by the first respondent-Government rejecting the petitioner's application filed under Section 80-A of the Act on the ground that the same is not maintainable for want of locking and sealing of the premises, is erroneous.

5 The learned Special Government Pleader appearing for the first respondent fairly submits that the matter may be remitted back to the first respondent-Government for re-consideration.

6 In view of the aforesaid submission made by the learned Special Government Pleader, the impugned order passed by the first respondent-Government is set aside and the matter is remitted back to the first respondent-Government to re-consider

¹ W.P.Nos.16392 of 2015 etc. batch

all the issues afresh and pass orders on merits, in the light of the aforestated decision.

7 The writ petition stands disposed of accordingly. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS IV)

/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
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

+1 cc to D.S.Rajasekaran, Advocate, sr.61582
+1 cc to K.rajashrinivas, Advocate, sr.61687
+1 cc to Government Pleader, sr.61799

W.P. No.36178 of 2015

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