

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.36550 of 2015
and

M.P. Nos.1 to 3 of 2015

K. Krishnakumar

...Petitioner

Vs.

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

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

3 Corporation of Chennai
represented by its Commissioner
Ripon Building
Chennai 600 003

4 The Executive Engineer
Corporation of Chennai
Regional Office - Central
II Cross Street
East Pulla Avenue
Shenoy Nagar,
Chennai 600 030

...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 pertaining to Letter No.11304/UD-VI(1) 2015-I dated 06.08.2015 and the records of the 4th respondent in Notice No.Regioncentral/TPENF/0648/2015 dated 08.10.2015 and quash the same and consequently direct the first respondent to consider the appeal filed by the petitioner on merits.

For petitioner : Mr. Richardson Wilson

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

For R2 : Mr. K. Raja Srinivas,
Standing Counsel

For RR 3 & 4 : Mr. R. Arunmozhi,
Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for the second respondent. Mr. R. Arunmozhi, learned Standing Counsel, accepts notice for respondents 3 and 4. 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 06 August 2015 passed by the first respondent-Government rejecting the revision (sic) application preferred by the petitioner challenging the notice calling for approved plan dated 27 May 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 also the locking, sealing and demolition notice dated 08 October 2015 issued by the Corporation of Chennai under the very same provision.

3 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 dated 06 August 2015 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.

4 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.

5 In view of the aforesaid submission made by the learned Special Government Pleader, the impugned order dated 06 August 2015 passed by the first respondent-Government rejecting the petitioner's application filed under Section 80-A of the Act is set aside and the matter is remitted back to the first respondent-Government to re-consider all the issues afresh and pass orders on merits, in the light of the aforestated decision. Further, the authorities are directed to consider and pass orders on the petitioner's application filed under Section 80-A (3) of the Act seeking interim relief, within a period of two weeks from today. That apart, the locking, sealing and demolition notice dated 08 October 2015 issued by Chennai Corporation, which is also impugned in this writ petition, shall remain suspended for a period of three weeks from today.

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

सत्यमेव जयते
Sd/-

Assistant Registrar (CCC)

//True Copy//

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Sub Assistant Registrar

1 W.P. Nos.16392 of 2015 etc. batch

cad

To

- 1 The Secretary
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat
Chennai 600 009
 - 2 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore
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 - 3 The Commissioner
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 - 4 The Executive Engineer
Corporation of Chennai
Regional Office - Central
II Cross Street
East Pulla Avenue
Shenoy Nagar, Chennai 600 030
- 1 CC to Mr. Richardson Wilson, Advocate SR.No. 61962
- 1 CC to Mr. R. Arunmozhi, Advocate SR.No. 62276
- 1 CC to the Government Pleader, SR.No. 62343
- 1 CC to Mr. K. Raja Srinivas, Advocate SR.No. 62537

W.P. No.36550 of 2015

CA (CO)
PSI (26.11.2015)

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