

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM:

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

W.P. No.36876 of 2015
and
M.P. No.1 of 2015

P. Popat Lal

... Petitioner

Vs.

1. Government of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai 600 009
2. The Regional Deputy Commissioner
Chennai Corporation (North Zone)
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021
3. The Executive Engineer (Enforcement)
Zone V, Corporation of Chennai
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021
4. The Assistant Executive Engineer
Division 53, Unit 12, Zone V
Corporation of Chennai
Chennai

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at No.21/11, Arumugam Street, Kothavalchavadi, Sowcarpet, Chennai 600 001, particularly by way of de-occupation, pending

final determination of the appeal dated 20.10.2015, pending with the first respondent under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

For petitioner : Mrs. S. Meenakumari

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

For RR 2-4 : Mr. V.C. Selvasekaran,
Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for respondents 2 to 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 seeking a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at No.21/11, Arumugam Street, Kothavalchavadi, Sowcarpet, Chennai 600 001, particularly, by way of de-occupation, pending final determination of the appeal (sic) application dated 20 October 2015, filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") before the first respondent-Government.

3. From a perusal of the records, it is seen that the Chennai Corporation has issued a de-occupation notice on 12 October 2015 under Sections 56(2)(iii) and 2A 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 20 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. Without going into the merits of the case, 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-Government 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., 19 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.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cad

To

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

2. The Regional Deputy Commissioner
Chennai Corporation (North Zone)
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021

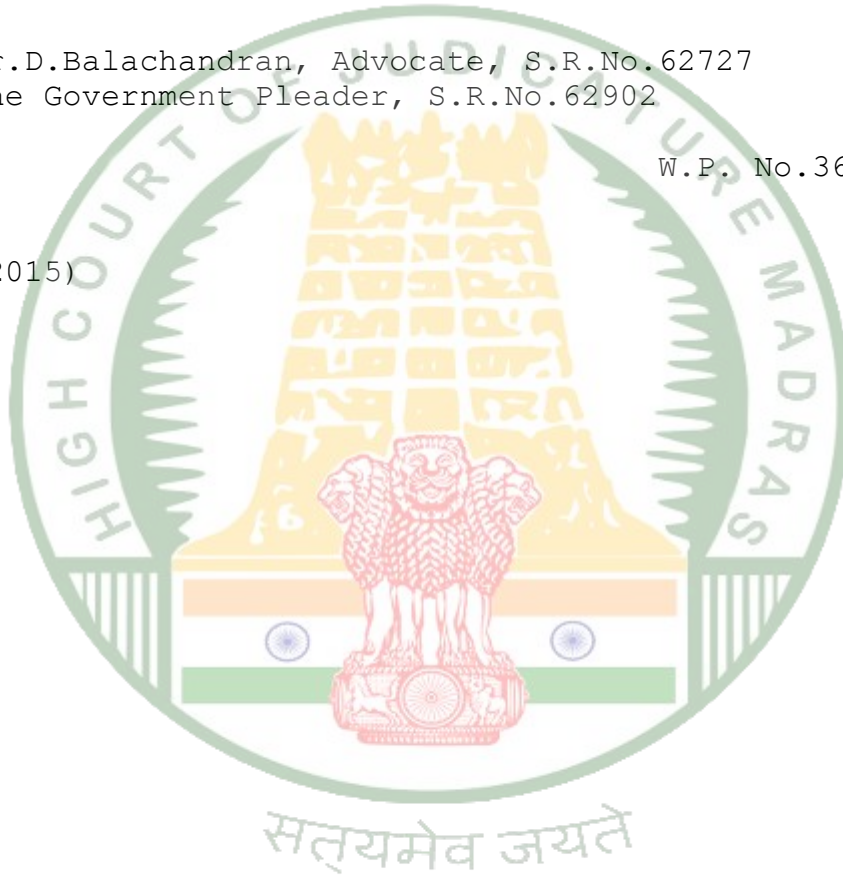
¹ W.P.Nos. 16392 of 2015 batch.

3. The Executive Engineer (Enforcement)
Zone V, Corporation of Chennai
No.62, Basin Bridge Road
Old Washermanpet
Chennai 600 021
4. The Assistant Executive Engineer
Division 53, Unit 12, Zone V
Corporation of Chennai
Chennai

+1cc to Mr.D.Balachandran, Advocate, S.R.No.62727
+1cc to the Government Pleader, S.R.No.62902

W.P. No.36876 of 2015

BVR(CO)
CA(01/12/2015)



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