

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and

THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.37429 of 2015 and M.P. No.1 of 2015

B.T. Enterprises Private Ltd.
represented by its Director
Mrs. B. Tamil Selvi
having Registered Office
at New No.185, Old No.110
Poonamallee High Road
Kilpauk, Chennai 600 010

Petitioner

Vs.

- 1 Government of Tamil Nadu
represented by the Principal Secretary to Government
Housing and Urban Development Department
Secretariat,
Fort St. George, Chennai 600 009
- 2 Chennai Metropolitan Development Authority (CMDA)
represented by its Member Secretary
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 3 Sholavaram Panchayat Union
represented by its Commissioner
Sholavaram
Tiruvallur District
- 4 Alamathi Village Panchayat
represented by its Executive Officer-cum-President
Alamathi Village
Sholavaram Panchayat Union
Tiruvallur District

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to dispose of the petitioner's appeal dated

02.11.2015 within a reasonable time to be fixed by this Hon'ble Court without proceeding with any further adverse action against the petitioner premises situated pursuant to the various sub-divisions in Survey Numbers 292, 293, 294, 295, 296, 302, 314, 330 and 332 covered by Patta Nos.4100, 4121, 4122, 4133, 6078 and 6188 situated in No.111, Alamathi - 2 Revenue Village, abutting Red Hills Tiruvallur High Road within Sholavaram Panchayat Union in Tiruvallur District by the respondents and their subordinates in any manner affecting or disturbing the petitioner's peaceful possession and enjoyment of the same with the present physical features.

For petitioner Mr R. Muthukumarasamy, Sr. Counsel
for Mr. R. Krishnaswamy
For R1 Mr. P.S. Sivashanmugasundaram, Spl. Govt. Pleader
For R2 Mr. K. Raja Srinivas, Standing Counsel
For R3 Mr. S. Diwakaran, Addl. Govt. Pleader

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. S. Diwakaran, learned Additional Government Pleader, accepts notice for the third respondent. With the consent of the learned counsel for the petitioner, learned Special Government Pleader appearing for the first respondent and the learned Standing Counsel for respondents 2 and 3, 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 directing the first respondent to dispose of the petitioner's appeal (sic) application dated 02 November 2015 filed under Section 80 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") within a reasonable time, without proceeding with any further adverse action against the petitioner's premises situated in sub-divisions in Survey Numbers 292, 293, 294, 295, 296, 302, 314, 330 and 332 covered by Patta Nos.4100, 4121, 4122, 4133, 6078 and 6188 situated in No.111, Alamathi - 2 Revenue Village, abutting Red Hills Tiruvallur High Road within Sholavaram Panchayat Union in Tiruvallur District.

3 As against the de-occupation notice dated 01 September 2015, which is signed on 26 October 2015, only an application under Section 80-A of the Act is maintainable before the Government in exercise of its special powers. Thus, the

petitioner's application dated 02 November 2015, which the petitioner wants to be disposed of, has purportedly been filed under Section 80-A of the Act.

4 From a perusal of the records, it is seen that Chennai Metropolitan Development Authority has issued the aforestated de-occupation notice to the petitioner under Sections 56(2)(iii) and 2A of the Act. Thereagainst, the petitioner has preferred an application, as aforestated, which is pending consideration. It is further seen that along with the said application, the petitioner has also filed two interlocutory applications, viz., petition seeking removal of lock and seal of the premises and petition seeking to restrain the second respondent from proceeding further based on the de-occupation notice.

5 Without going into the merits of the case, we are of the considered view that if an application, as aforestated, is filed along with the applications for interim relief, the officers are well advised to consider the applications for interim relief at the earliest, preferably within a period of two weeks, to avoid further complications.

6 Accordingly, we direct the first respondent-Government to consider the petitioner's applications 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., 25 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 stands disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/
ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

cad

1 W.PNos. 16392 of 2015 batch.

To

- 1 The Principal Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat
Fort St. George
Chennai 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
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- 3 The Commissioner
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- 4 The Executive Officer-cum-President
Alamathi Village Panchayat
Alamathi Village
Sholavaram Panchayat Union
Tiruvallur District

+1 CC to MR.K. Raja Srinivas Advocate. SR.NO.64746
+1 CC to MR.V.Ajay Khose Advocate. SR.NO. 63771
+1 CC to Govt.Pleader. SR.NO. 64247

W.P. No.37429 of 2015

CO-MSM
JD 15/12/2015

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