

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2015

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Dr. JUSTICE P.DEVADASS

W.P.No.38284 of 2015
and
M.P.Nos.1 and 2 of 2015

S.Sivaperumal ... Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development
Department, Secretariat,
Chennai - 9.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 8.

3.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 3. .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records culminated in the impugned original impugned Letter No.17705/UD6(2)/2015-1 dated 22.09.2015 issued by the first respondent and quash the same as illegal and consequently direct the first respondent to entertain the appeal petition dated 27.02.2015 of the petitioner and dispose of the same on merits.

For Petitioner .. Mr.AR.L.Sundaresan,
Sr. Counsel
for Mr.B.Singaravelu

For Respondents.. Mr.P.S.Sivashanmugha Sundaram,
Spl. Govt. Pleader for R1
Ms.G.Mahar Amutha Surya
for Mr.Raja Srinivas for R2
Mr.A.Nagarajan for R3

ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2.This writ petition is filed seeking to quash the order dated 22 September 2015 passed by the first respondent, whereby and whereunder, the petitioner's appeal petition filed under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), has been rejected as premature and also for a direction to the first respondent to entertain the appeal petition dated 27.02.2015.

3.The issue involved herein is as to whether the special revision under Section 80-A of the Act is maintainable against the decision taken under the provisions of Sections 56(2-A) and 57(4) of the Act, without insisting on the locking and sealing of the premises.

4.This Division Bench, in the judgment delivered on 29th September, 2015 in Lalithkumar C. Soni - Vs. - Government of Tamil Nadu and others¹, considered the aforestated issue, in extenso and held as under:-

" (15). We therefore hold that a special revision petition under Section 80-A of the Act is maintainable before the Government against the decision taken by the appropriate Planning Authority in respect of locking and sealing the premises under sub Section (2-A) of Section 56 or under sub section (4) of Section 57, even before resorting to the act of locking and sealing. In short, sealing the premises is not a condition precedent for filing special revision petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Tamil Nadu Act 61 of 2008.

16. In the result, the impugned orders are set aside. The petitioners are given liberty to represent

1 W.A.Nos. 16392 of 2015 batch.

the special revision petitions under Section 80-A of the Act. In case of such re-presentation within a period of two weeks from today, every effort shall be taken by the Government to dispose of the matter within the statutory period.

17. In the upshot, we allow the Writ Petitions."

5. In such view of the matter, the impugned order is set aside and the writ petition is allowed on the same terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

1. The Secretary to Government,
Housing and Urban Development
Department, Secretariat,
Chennai - 9.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore, Chennai - 8.
3. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 3.

+2 CC to MR.B.Singaravelu Advocate. SR.NO. 67154
+1 CC to Govt.Pleader. SR.NO. 67241
+1 CC to MR.Raja Srinivas Advocate. SR.NO.67437
+1 CC to MR.A.Nagarajan Advocate. SR.NO.67379

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CO-TM

JD 29/12/2015