

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2015

CORAM:

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

W.P. No.38314 of 2015

K. Vasumathi
represented by Power Agent
S.S. Muthu Kumar

..Petitioner

Vs.

1. The Secretary to Government,
Housing and Urban Development Department
Fort St. George, Secretariat,
Chennai.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.

3. The Commissioner,
Thiruverkadu Municipality,
Sivan Koil Street, Thiruverkadu,
Chennai.77.

..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 1st respondent in letter No.16931/UD-VI(2)/2015 1, dated 11.09.2015 in rejecting petitioner's appeal filed under section 80-A of the Town and Country Planning Act as against locking and sealing decision of 2nd and 3rd respondents for the building comprised in Plot No. 81A Pillayar Madam Thangal, Moovendar Nagar, Noombal, Chennai-77 by quashing the same and consequently direct the respondents to regularise the building put up in aforementioned property.

For Petitioner : Mr. B. Vijay

For R1& R3 : Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R2 : Mr. K. Raja Srinivas

- - - - -

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the respondents 1 & 3. Mr. K. Raja Srinivas, learned 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 11 September 2015 passed by the first respondent-Government rejecting the appeal (sic) application preferred by the petitioner challenging the locking, sealing and demolition notice dated 27 July 2015 issued by the third respondent-Municipality under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

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 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 respondents 1 and 3 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 passed by the first respondent-Government is set aside and the matter is

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

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.

The writ petition stands disposed of accordingly. Costs made easy.

ra

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary to Government,
Housing and Urban Development Department
Fort St. George, Secretariat,
Chennai.
 2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1 Gandhi Irwin Road,
Egmore, Chennai 600 008.
 3. The Commissioner,
Thiruverkadu Municipality,
Sivan Koil Street, Thiruverkadu,
Chennai.77.
- + 1 cc to Mr.K.Raja Srinivas, For R2 Advocate Sr 65490.

VGI/CO
KR/22/12

सत्यमेव जयते

WEB COPY

W.P. No.38314 of 2015