

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.38344 of 2015

and

M.P. No.1 of 2015

G. Kumud Jhabakh

... Petitioner

Vs.

1. Government of Tamil Nadu
represented by Secretary to Government,
Housing and Urban Development Department
Secretariat,
Chennai 600 009
2. Corporation of Chennai,
rep. By its Commissioner,
Rippon Building,
Chennai 600 003.
3. Corporation of Chennai,
rep. By its Executive Engineer,
Zone 5, Division-58,
No.9, Kannappan Thidal,
Chennai 600 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 2nd and 3rd respondents to forbear them from in any way interfering with the petitioner's building put up at New No.3/2, Old No.7, Church Lane (Ritherdon 3rd lane) Vepery, Chennai 600 007, particularly by way of locking and sealing and or demolition of the same, pending final determination of petitioner's application dated on 04.11.2015 under Section 80-A of the Town and Country Planning Act, 1971 with the first respondent.

For petitioner : Mr. D.S. Rajasekaran
For R1 : Mr. P.S. Sivashanmugasundaram
Special Government Pleader
For R2 &R3 : Mr. A. Nagarajan

O R D E R
(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. A. Nagarajan, learned Counsel, accepts notice for the respondents 2 and 3. 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 and 3 from in any way interfering with the petitioner's building put up at New No.3/2, Old No.7, Church Lane (Ritherdon 3rd lane) Vepery, Chennai 600 007, particularly by way of locking and sealing and or demolition of the same, pending final determination of the petitioner's application dated on 04.11.2015 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") with the first respondent.

3. From a perusal of the records, it is seen that the third respondent, viz., The Executive Engineer, Corporation of Chennai, has issued a locking, sealing and demolition notice on 15 October 2015 under Section 57 read with Section 85 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 04 November 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 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., 01 December 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 is disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. Government of Tamil Nadu
represented by Secretary to Government,
Housing and Urban Development Department
Secretariat,
Chennai 600 009

2. Corporation of Chennai,
rep. By its Commissioner,
Rippon Building,
Chennai 600 003.

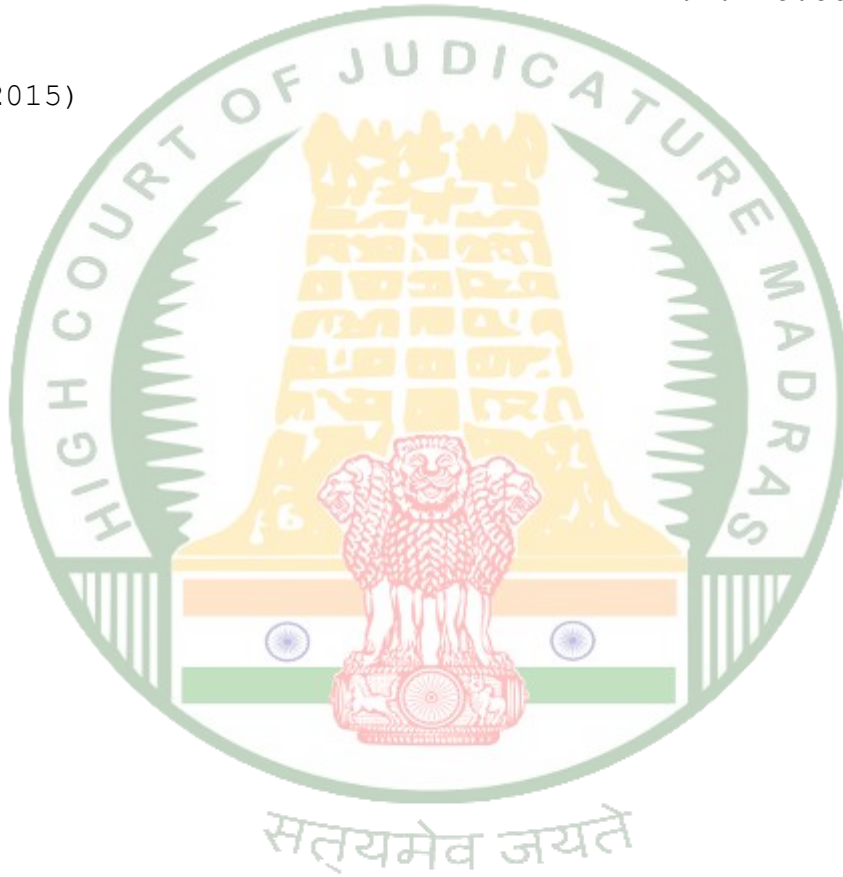
¹ W.A.Nos. 16392 of 2015 batch.

3. Corporation of Chennai,
rep. By its Executive Engineer,
Zone 5, Division-58,
No.9, Kannappan Thidal,
Chennai 600 003.

+1cc to Mr.D.S.Rajasekaran, Advocate, S.R.No.65134
+1cc to Mr.A.Nagarajan, Advocate, S.R.No.65221

W.P. No.38344 of 2015

VS (CO)
CA(16/12/2015)



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