

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2015

CORAM:

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

W.P. No.40061 of 2015 and M.P. No.1 of 2015

Dilip Kumar Gupta

Petitioner

Vs.

- 1 The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008
- 2 The Executive Engineer-Zone II
Corporation of Chennai
Chennai - 1
- 3 The Government of Tamil Nadu
represented by its Secretary to Government
Housing and Urban Development Department
Fort St. George
Chennai - 600 009

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the first and second respondents from initiating any action in pursuance of the notice issued by the first respondent dated 16.10.2015 in Letter No.ED/NI/3788/2015 which was received on 16.11.2015 for the property situated at Door No.116/2(121/2), Coral Merchant Street, Muthialpet, Chennai - 600 001, pending disposal of the statutory appeal dated 19.11.2015 made under the special provision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971.

For petitioner Mr. S. Thiruvengadam

For R1 Mr. K. Raja Srinivas, Standing Counsel

For R2 Mr. V.C. Selvasekaran, Standing Counsel

For R3 Mr. N. Sakthivel, Government Advocate

O R D E R

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for the first respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for the second respondent. Mr. N. Sakthivel, learned Government Advocate, accepts notice for the third 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 seeking a writ of mandamus forbearing the first and second respondents from initiating any action in pursuance of the notice dated 16 October 2015 issued by the first respondent for the property situated at Door No.116/2 (121/2), Coral Merchant Street, Muthialpet, Chennai - 600 001, pending disposal of the statutory appeal dated 19 November 2015 made under the special provision under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act").

3 From a perusal of the records, it is seen that the first respondent, viz., Chennai Metropolitan Development Authority, has issued a de-occupation notice on 16 October 2015 under Sections 56 (2)(iii) and 2A of the Act against the petitioner. Thereagainst, the petitioner has preferred an application before the third respondent under Section 80-A of the Act on 19 December 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 an 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. सत्यमेव जयते

5 Accordingly, we direct the third 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., 21 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.

¹ WPNos. 16392 of 2015 batch.

With the above directions, the writ petition stands disposed of sans costs. Connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cad

To

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3 The Government of Tamil Nadu
represented by its Secretary to Government
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Fort St. George
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1 cc to Government Pleader, Sr. 69250

1 cc to M/s. K. Raja Shrinivas, Advocate, Sr. 69054

1 cc to M/s.S. Thiruvengadam, Advocate, Sr. 68893

W.P. No.40061 of 2015

PPA (CO)
kk 6/1

सत्यमेव जयते

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