

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2015

CORAM:

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

W.P. No.5936 of 2015 and M.P. No.1 of 2015

M/s.First Capital Development
India Pvt. Ltd.

Repd. by its Managing Director,
Jawahar Hussain,
No.1 Venkatesa Agraharam Street,
Mylapore Chennai-600004.

Petitioner

Vs.

1 The Secretary
to the Government,
Housing and urban Development Department ,
Fort St. George
Chennai-600 009.

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

3 The Commissioner
Corporation of Chennai Rippon Buildings
Chennai-600 003.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the 2nd respondent to forbear them from in any way interfering with the petitioner's building in Old No.111, New No.136, Coral Merchant Street, George Town, Chennai-600 001 particularly by way of locking, sealing and demolition in pursuance of the Notice in Letter No.EN2/19258/2014 dated 30.01.2015 during the pendency of petitioner's appeal dated 25.02.2015 on the file of the 1st respondent.

For petitioner Mr. S. Santosh

For R1 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R2 Mr. K. Raja Srinivas

For R3 Mr. G. Anantharangan

ORDER

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

Feeling aggrieved by the notice dated 30.01.2015 issued by the second respondent under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), the petitioner has preferred an appeal under Section 80-A of the Act before the first respondent-Government, with an application for interim relief, on 25.02.2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on 03.03.2015, seeking a direction to the Appellate Authority to dispose of the appeal, expeditiously.

2 At this stage, it is better to point out certain provisions of law under which an appeal is to be decided. The second proviso to Section 80-A of the Act prescribes that the application for revision/appeal filed under Section 80-A of the Act shall be disposed of by the Government within 90 days from the date of receipt of the application. Grant of 90 days time to dispose of the appeal is certainly with some object, perhaps, to obtain views of the authorities and also to provide an opportunity of hearing to all the parties concerned. In that process, 90 days time may be required to render justice between the parties.

3 Now, the petitioner has come up with the instant writ petition within 8 days from the date of preferring the appeal, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, this is not a case where issue of non-action, wrong action or inaction has arisen, as, the Appellate Authority has not been given an opportunity to take action, within the reasonable time. Thus, this writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

4 We deprecate this practice of rushing to the Writ Court invoking the extra-ordinary jurisdiction of the High Court under Article 226 of the Constitution of India, without waiting for a decision within the prescribed statutory period. This practice is tantamount to abuse of judicial process.

5 It is also brought to our notice that an application for interim relief has also been filed under Section 80-A(3) of the Act. We expect that the authorities will consider the application for interim relief, at the earliest, preferably within a period of two weeks, whenever an application for interim relief is filed along with the memorandum of appeal.

6 In view of the foregoing, status quo, in respect of the property in question, as obtained today, shall be maintained for a period of two weeks from today.

7 The writ petition stands disposed of, with the above observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ra
To

- 1 The Secretary
to the Government,
Housing and urban Development Department ,
Fort St. George
Chennai-600 009.
- 2 The Member Secretary
Chennai Metropolitan Development Authority
No.1 Gandhi Irwin Road , Egmore
Chennai-600 008.
- 3 The Commissioner
Corporation of Chennai Rippon Buildings
Chennai-600 003.

- 1 cc to Mr. S. Santosh, Advocate, SR.No.12769
1 cc to Mr.K. Raja Srinivas , Advocate, SR.No.12353
1 cc to Mr. G. Anantharangan, Advocate, SR.No.12135
1 cc to Government Pleader, Sr.No12353

W.P. No.5936 of 2015

gj(co)
pmk.23.2.2015