

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-03-2015

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL
WRIT PETITION No.6477 of 2015
and
M.P.No.1 of 2015

P.Rajendra Singh

... Petitioner

vs

1. The Secretary to Government
Housing and Urban Land Development
Government of Tamil Nadu
Fort St. George, Chennai 600 009

2. The Chairman and Managing Director
Chennai Metropolitan Development
Authority
No.8, Gandhi Irwin Road, Egmore
Chennai 600 008

3. The Executive Engineer
(T.P. RDC North)
Corporation of Chennai
Zonal Office-V,
Chennai 600 003.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the third respondent to unlock the premises in ground floor of the petition property bearing Door No.126, Govindappa Naicken Street, Sowcarpet, Chennai 600 079, more fully described in the Schedule, in order to make any alteration about the alleged deviation as stated by the third respondent and report the same before this Court within the stipulated time.

For Petitioner : Mr.P.Subba Reddy

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader
for R1

Mr.K.Raja Srinivas for R2

Mr.G.Anantharangan for R3

ORDER

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

Feeling aggrieved by the notice dated 24.12.2014, issued by the third respondent under Section 56(2) Sub-Clause (iii) and (2A) of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") in continuation of the locking, sealing and demolition notice dated 5.5.2014, issued under Sections 56 and 57 read with Section 85 of 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 10.02.2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petition on 06.03.2015, seeking a direction to the authorities to unlock the premises in question. The learned Counsel appearing for the petitioner, submits that the authorities may be directed to dispose of the appeal filed by the petitioner, 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 24 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 extraordinary 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. Consequently, connected miscellaneous petition is closed.

Schedule of the property

All that piece and parcel of the property land and building bearing Old Door No.235, New No.126, Present Door No.271, Govindappa Naicken Street, George Town, Chennai comprised in O.S. No.3014, R.S.No.11019, Block No.88, V.O.V. Nagar, Collector Certificate No.3594, of an extent of 832 sq.ft. Bounded on the:

North by : Door No.252/125, Ramasamy Pillai House[R.S.No.11018]

South by : Door No.254/127, Bashiam Naidh House[R.S.No.11020]

East by : Door No.254/127, Bashiam Naidh House[R.S.No.11020] and

West by : Govindappa Naicken Street.

Situate within the Registration District of North Chennai and sub Registration District of Sowcarpet.

Dated at Chennai, this the 6th day of March, 2015.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

nsv

To:

1. The Secretary to Government
Housing and Urban Land Development
Government of Tamil Nadu
Fort St. George, Chennai 600 009

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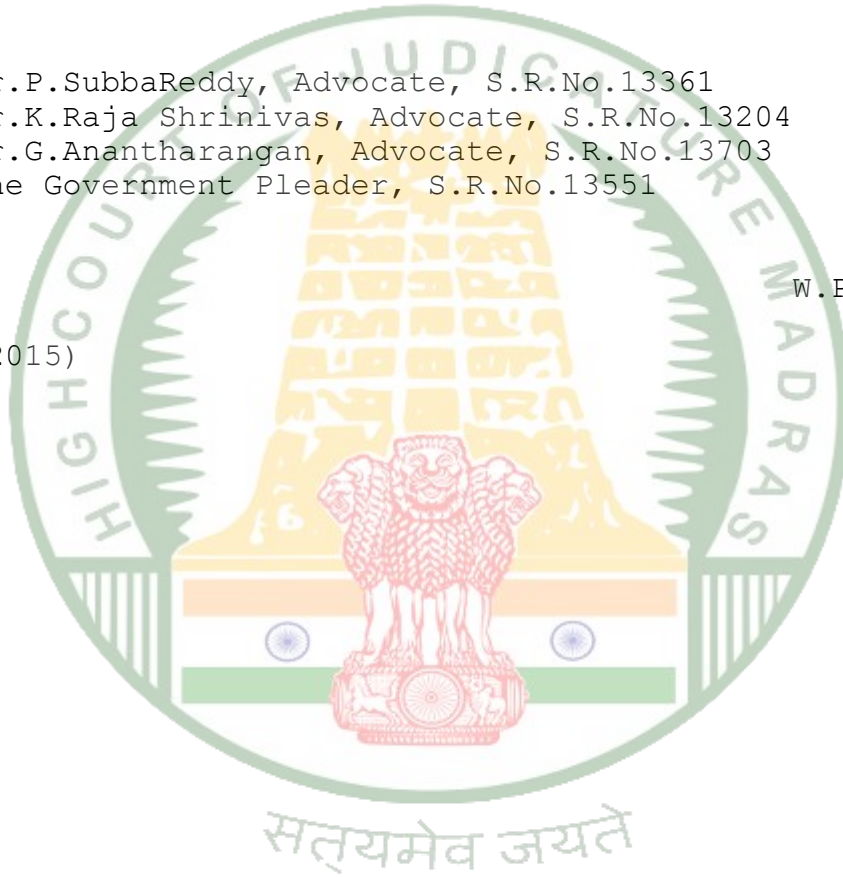
2. The Chairman and Managing Director
Chennai Metropolitan Development
Authority
No.8, Gandhi Irwin Road, Egmore
Chennai 600 008

3. The Executive Engineer
(T.P. RDC North)
Corporation of Chennai
Zonal Office-V,
Chennai 600 003.

+1cc to Mr.P.SubbaReddy, Advocate, S.R.No.13361
+1cc to Mr.K.Raja Shrinivas, Advocate, S.R.No.13204
+1cc to Mr.G.Anantharangan, Advocate, S.R.No.13703
+1cc to the Government Pleader, S.R.No.13551

SK(CO)
CA(12/03/2015)

W.P.No.6477 of 2015



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