

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2015

CORAM:

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

W.P. No.7303 of 2015 and M.P. No.1 of 2015

1 Lalith Kumar C. Soni  
2 Sandeep Purohit  
3 Sarika M. Jain  
4 Vimala Jain

Petitioners

Vs.

1 The Commissioner  
Corporation of Chennai  
Ripon Buildings  
Chennai 600 003

2 The Executive Engineer  
Corporation of Chennai  
O/o Regional Deputy Commissioner - North  
Basin Bridge Road  
Chennai 600 021

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 seeking a writ of mandamus forbearing the respondents 1 and 2 from initiating any coercive action of locking and sealing and demolition with regard to the petitioners' building put up at Old No.349, New No.336, Mint Street, Sowcarpet, Chennai 600 079 under the Town and Country Planning Act till the disposal of the petitioners' appeal petition submitted under Section 80-A of the Tamil Nadu Town and Country Planning Act.

For petitioners Mr. R. Mohan  
For RR 1 & 2 Mr. G. Anantharangan  
Standing Counsel

For R3 Mr. N. Sakthivel  
Government Advocate

ORDER

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

Feeling aggrieved by the notice dated 31.01.2015 issued by the second respondent under Section 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), the petitioners have preferred an appeal under Section 80-A of the Act before the third respondent-Government, with an application for interim relief, on 26.02.2015. Without waiting for a reasonable time, the petitioners have rushed to this Court with the instant writ petition on 10.03.2015, 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 petitioners have come up with the instant writ petition within 10 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

cad

To

- 1 The Commissioner  
Corporation of Chennai  
Ripon Buildings  
Chennai 600 003
- 2 The Executive Engineer  
Corporation of Chennai  
O/o Regional Deputy Commissioner - North  
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- 3 The Secretary to Government  
Housing and Urban Development Department  
Government of Tamil Nadu  
Fort St. George  
Chennai 600 009

+ 1 cc to M/s.G.Anantharangan, Advocate SR.14463  
+ 1 cc to Mr. R. Mohan, Advocate SR.14537  
+ 1 cc Government Pleader Sr.14665

RK(CO)  
EU 01.04.2015

W.P. No.7303 of 2015

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