

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM:

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

W.P. Nos.7467 & 7468 of 2015
and

M.P. Nos.1 of 2015

Dr. S. Tamilarasu

...Petitioner
(in both W.Ps.)

Vs.

- 1 The Secretary ,
Housing and Urban Development Department ,
Govt. of Tamil Nadu, Fort St. George
Secretariat, Chennai-600 009.
- 2 The Executive Engineer,
Zone XIII, Corporation of Chennai,
Zonal Office, Lattice Bridge Road,
Adyar, Chennai-600 020.

...Respondents
(in both W.Ps.)

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus forbearing the respondents herein, their men, agents, servants, subordinates or any other person or persons claiming through them or authorized by them from in any manner, locking and sealing the premises or compelling de-occupation of the petitioner from the building situate at Door No.7 Dr.Muthulakshmi Salai (Lattice Bridge Road), Adyar, Chennai-20, without considering and disposing of the appeals filed by the petitioner before the 1st respondent herein on 9.3.2015 against Locking and Sealing Notice issued vide Letter No.74 dated 7.11.2013 and de-occupation notice No.10437 dated 10.12.2014 of the 2nd respondent herein.

For petitioner : Mr. AR.L.Sundaresan,
in both the WPs Sr. Counsel
for Ms. AL. Ganthimathi

For R1 :
in both the WPs Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For R2 : Mr. G. Anantharangan
in both the WPs

COMMON ORDER

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

Feeling aggrieved by the locking and sealing notice dated 07.11.2013 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") and de-occupation notice under Sections 56-2(A) and 57 read with Section 85 of the Act, the petitioner has preferred two appeals under Section 80-A of the Act before the first respondent-Government, with an application for interim relief, on 09.03.2015. Without waiting for a reasonable time, the petitioner has rushed to this Court with the instant writ petitions on 16.03.2015, seeking a direction to the Appellate Authority to dispose of the appeals, 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 petitions within 7 days from the date of preferring the appeals, seeking a mandamus which is normally issued against an authority for non-action or inaction or against wrong action. Certainly, these are not cases 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, these writ petitions for issuance of a writ of mandamus are 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 applications for interim relief have 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 applications for interim relief are filed along with the memorandum of appeals.

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 These writ petitions stand disposed of, with the above observation. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ra

To

1 The Secretary ,
Housing and Urban Development Department,
Govt. of Tamil Nadu, Fort St. George
Secretariat, Chennai-600 009.

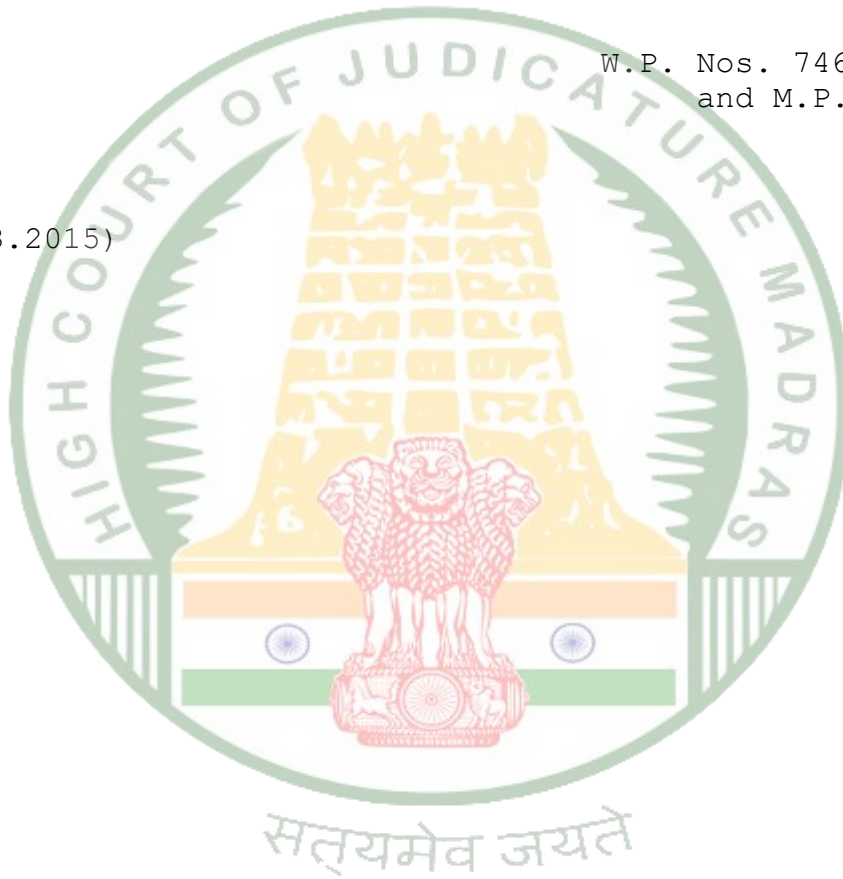
2 The Executive Engineer,
Zone XIII, Corporation of Chennai,
Zonal Office, Lattice Bridge Road,
Adyar, Chennai-600 020.

1 CC to Ms. AL. Ganthimathi, Advocate SR.No. 15092

1 CC to the Government Pleader, SR.No.15049

W.P. Nos. 7467 & 7468 of 2015
and M.P.No.1 & 1 of 2015

LRS (CO)
PSI (30.03.2015)



WEB COPY