

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM:

THE HON'BLE MR. JUSTICE M. VENUGOPAL
and
THE HON'BLE MR. JUSTICE K. KALYANASUNDARAM

W.P. No. 8109 of 2015 and M.P. No.1 of 2015

Bharath Kumar Mardia

... Petitioner

Vs.

1. Corporation of Chennai
Rep. by its Commissioner,
Rippon Buildings
Chennai-3.
2. The Executive Engineer,
Enforcement-Region Central,
Corporation of Chennai, 2nd Cross Street,
Pulla Avenue,
Shenoy Nagar, Chennai-30.
3. The Government of Tamil Nadu
Rep. by its Secretary to Government ,
Housing & Urban Development Department,
Fort St. George Chennai-9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus forbearing the respondents 1 and 2 or anyone on their behalf from initiating any coercive action of locking and sealing and demolition with regard to the 2nd floor flat put up at No.5/46 Thangam Colony 3rd Street, Anna Nagar, Chennai-40, till the disposal of petitioner Appeal Petition submitted under Section 80-A of the Town and Country Planning Act to the 3rd respondent.

For petitioner : Mr. L. Chandrakumar

For R1 & R2 : Mr. G. Anantharangan

For R3 : Mr. N. Sakthivel, GA

ORDER

(Order of the Court was made by M. VENUGOPAL, J.)

Heard both sides.

2. The petitioner has projected the instant Writ of Mandamus praying for passing of an order by this Court forbearing the respondents 1 and 2 or anyone on their behalf from initiating any coercive action of locking and sealing and demolition with regard to the 2nd floor flat put up at No.5/46 Thangam Colony 3rd Street, Anna Nagar, Chennai-40, till the disposal of petitioner Appeal Petition submitted under Section 80-A of the Town and Country Planning Act to the 3rd respondent.

3. It comes to be known that the petitioner was issued with the de-occupation notice dated 12.3.2015 by the first respondent/ Corporation of Chennai and that the petitioner had preferred an appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), along with the appeal petition, stay petition under Section 80-A (3) of the Act was also filed before the competent authority. As on date, both the appeal and the stay application are pending.

4. At this juncture, it is to be borne in mind that the ingredients of Section 80-A of the Act envisages that an 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/petition. It cannot be lost sight of that the grant of 90 days time to dispose of the appeal is certainly with some purpose and object, mainly to secure the 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 complete justice between the parties.

5. However, the petitioner has come up with the instant writ petition within a short period of time 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 the requisite action, within the prescribed period. As such, the present writ petition for issuance of a writ of mandamus is not maintainable, at this stage.

6. In view of the fact that the petitioner had filed the appeal under Section 80-A of the Act and also had filed the stay application

under Section 80-A(3) of the Act, this Court, in the interest of justice, direct the authorities concerned to dispose of the stay application within a period of two weeks from the date of receipt of a copy of this order. Till such time, the status quo, in respect of the property in question, as obtained today, shall be maintained. That apart, the authorities concerned are also directed to dispose of the appeal within the statutory period.

7. With the aforestated observations and directions, the writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

ra Sub Assistant Registrar

To

1. The Commissioner,
Corporation of Chennai
Rippon Buildings
Chennai-3.
2. The Executive Engineer,
Enforcement-Region Central,
Corporation of Chennai, 2nd Cross Street,
Pulla Avenue,
Shenoy Nagar, Chennai-30.
3. The Secretary to Government ,
Government of Tamil Nadu
Housing & Urban Development Department,
Fort St. George Chennai-9.

+1cc to Mr.G.Anatharangan, Advocate, S.R.No.16095
+1cc to Mr.L.ChandraKumar, Advocate, S.R.No.16094
+1cc to the Government Pleader, S.R.No.16358

SR(CO)
CA(31/03/2015)

W.P. No.8109 of 2015