

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2015

CORAM:

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

W.P. No.8927 of 2015 and M.P. No.1 of 2015

Madras Diabetes Research Foundation
(registered under Societies Registration Act)
represented by its President
Dr. V. Mohan
S/o Late Dr. M. Viswanathan
No.4, Conran Smith Road
Gopalapuram
Chennai 600 086

... Petitioner

Vs.

1. The Director of Town and Country Planning
No.807 Anna Salai
Chennai 600 002
2. The Member Secretary
Mamallapuram Local Planning Authority
No.124, G.S.T. Road
Rajeswari Vedachalam Commercial Complex
Chengalpattu 603 001
Kancheepuram District
3. The President
Siruseri Town Panchayat
No.38, Siruseri Post
Chengalpattu Town
Kancheepuram District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to dispose of the petitioner's appeal dated 27.02.2015 in relation to the property i.e., Plot No.20, Survey No.240/2, Siruseri Village, Chengalpattu Taluk, Kancheepuram District.

For petitioner : Mr. P. Subba Reddy
For respondents : Mr. N. Sakthivel
Government Advocate

ORDER

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

Mr. N. Sakthivel, learned Government Advocate, takes notice for the respondents. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal, at the admission stage itself.

2. The case of the petitioner before us is that it has preferred an appeal, against the notice dated ...-01-2015, issued under the provisions of Section 85 read with Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act"), before the first respondent, viz., the Director of Town and Country Planning.

3. It is submitted by the learned counsel for the petitioner that sub-section (1) of Section 76 of the Act prescribes for disposal of the appeal within a period of two months from the date on which the decision or order was communicated to the person concerned, in the manner prescribed. It is further contended that under sub-section (6) of Section 76, *ibid*, the Director of Town and Country Planning is competent to pass such interlocutory orders, as he deems fit. Admittedly, no application for interim relief has been filed by the petitioner. Hence, the petitioner may be permitted to file an application for interim relief.

4. On the other hand, the learned Government Advocate would submit that against the notice issued under Sections 56 and 57 of the Act, the appeal will not lie before the first respondent under Section 76, but, only before the State Government, under other provisions of law.

5. The question with regard to the jurisdiction of the first respondent is to be decided by himself. Thus, we refrain ourselves from making any observation in respect of the jurisdiction of the first respondent, in the light of the contention advanced by the learned Government Advocate. However, we make it clear that if an appeal, as aforesaid, is pending consideration before the first respondent, which appears to have been filed on 27.02.2015, the first

respondent is required to consider and dispose of the same, on its own merits and in accordance with law, after examining his jurisdiction on the issue.

6. The writ petition stands disposed of with the above observations. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

1. The Director of Town and Country Planning
No.807 Anna Salai
Chennai 600 002
2. The Member Secretary
Mamallapuram Local Planning Authority
No.124, G.S.T. Road
Rajeswari Vedachalam Commercial Complex
Chengalpattu 603 001
Kancheepuram District
3. The President
Siruseri Town Panchayat
No.38, Siruseri Post
Chengalpattu Town
Kancheepuram District

+3cc's to M/s.P.Subba Reddy, Advocate, S.R.No.17249

W.P. No.8927 of 2015

RSK(CO)
CA(06/04/2015)