

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2015

CORAM:

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

W.P. No.9990 of 2015 and M.P. No.1 of 2015

Tipirneni Praveena

... Petitioner

vs.

1. Government of Tamil Nadu
represented by the Secretary
Department of Housing and Urban Development
Secretariat
Chennai 600 009
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Chennai 600 008
3. Sankranti Hotels Private Ltd.
Represented by its Managing Director
Y. Venkateswara Rao
A-3 Vijaya Enclave
No.29/14, Krishna Street
T. Nagar
Chennai 600 017

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for all the records leading to the issuance of the Government Letter No.ESI/11036/2008 dated 26.03.2015 by the second respondent and quashing the same and forbearing the respondents 1 and 2 from in any manner dealing with the third respondent in respect of the premises of the petitioner situated at Old No.135, New No.552, TTK Road, Alwarpet, Chennai 600 018.

For petitioner : Mr. P.S. Raman, Sr. Counsel
for Mr. K. Gowtham Kumar

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

For R2 : Mr. K. Raja Shrinivas, Standing Counsel

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for the first respondent and Mr. K. Raja Shrinivas, learned Standing Counsel, takes notice for the second respondent.

2. This writ petition is filed challenging the letter no.ESI/11036/2008 dated 26.03.2015 issued by the second respondent and also for a direction forbearing the respondents 1 and 2 from in any manner dealing with the third respondent in respect of the premises of the petitioner situated at Old No.135, New No.552, TTK Road, Alwarpet, Chennai 600 018.

3. The case of the petitioner before us is that the impugned communication dated 26.03.2015 directing the third respondent to remove the deviations and also pay charges, has been issued without affording an opportunity of hearing to the owner of the premises in question.

4. According to the learned Senior Counsel appearing for the petitioner, the petitioner is admittedly the owner of the premises in question bearing Old No.135, New No.552, TTK Road, Alwarpet, Chennai 600 018. The alleged occupier, viz., the third respondent cannot be directed to remove the deviations, without affording an opportunity to the owner to remove the deviations and unauthorised portion and restore the premises as per the approved plan.

5. Mr. K. Raja Shrinivas, learned Standing Counsel appearing for the second respondent submits that though the petitioner was a party to the entire proceedings and he never raised any objection in respect of this, however, the petitioner may be permitted to put forward his case once again and the authority will take a decision, on its own merits and in accordance with law.

6. In view of the above submission made by the learned Standing Counsel appearing for the second respondent, we are not inclined to go into the merits of the case, at this stage. However, we reserve liberty to the petitioner to file its response to the impugned communication dated 26.03.2015 issued by the second respondent. The second respondent, after affording an opportunity of hearing to the petitioner and the third respondent as well, shall pass a fresh order, on merits and in accordance with law and take consequential action, if required. Till such a fresh order is passed by the second respondent, the impugned communication dated 26.03.2015 shall remain suspended. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

7. The writ petition stands disposed of with the above direction and observation. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Secretary
Department of Housing and Urban Development
Government of Tamil Nadu
Secretariat
Chennai 600 009
2. The Member Secretary
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Chennai 600 008

+lcc to Mr.K.Rajashrinivas, Advocate, S.R.No.19145
+lcc to Mr.K.Gowtham Kumar, Advocate, S.R.No.18958
+lcc to the Government Pleader, S.R.No.19105

W.P. No.9990 of 2015
and M.P.No.1 of 2015

SCD(CO)
CA(15/04/2015)