

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2016

CORAM:

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

W.P. No.10103 of 2016

V. Faraesh

Petitioner

Vs.

- 1 The Government of Tamil Nadu
represented by Secretary to the Government
Housing and Urban Development Department
Fort St. George
Chennai 600 009
- 2 Corporation of Chennai
represented by its Commissioner
Ripon Buildings
Chennai 600 009
- 3 The Executive Engineer
Town Planning - Enforcement
Corporation of Chennai
Regional Office - Central
II Cross Street (East)
Pulla Avenue
Shenoy Nagar
Chennai 600 030
- 4 The Assistant Executive Engineer
Division - 78, Zone 6
Corporation of Chennai
Chennai

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at Door - Old No.49, New No.54, Sattam Naikar Street, Choolai, Chennai 600 112, in pursuance of the notice issued under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, during the period of pendency of appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, filed by the petitioner before the first respondent on 08.02.2016.

For petitioner Mr. K. Kannan
For R1 Mr. G. Sai Baba, Govt. Advocate
For RR 2 to 4 Mr. A. Nagarajan, Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. G. Sai Baba, learned Government Advocate, accepts notice for the first respondent. Mr. A. Nagarajan, learned Standing Counsel, accepts notice for respondents 2 to 4. 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 This writ petition is filed seeking a writ of mandamus forbearing the respondents 2 to 4 from in any way interfering with the building at Old Door No.49, New Door No.54, Sattam Naikar Street, Choolai, Chennai 600 112, in pursuance of the notice issued under Sections 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 (for brevity "the Act") during the period of pendency of appeal (sic) application under Section 80-A, *ibid*, filed by the petitioner before the first respondent on 08 (sic) 06 February 2016.

3 From a perusal of the records, it is seen that the Chennai Corporation has issued a locking, sealing and demolition notice on 09 January 2016 under Sections 56 and 57 read with Section 85 of the Act against the petitioner. Thereagainst, the petitioner has preferred an application before the first respondent under Section 80-A of the Act on 06 February 2016, which is under consideration. It is further seen that along with the said application, the petitioner has also filed an application for interim stay in terms of the provisions of Section 80-A(3) of the Act.

4 Without going into the merits of the case, we are of the considered view that if an application, as aforesaid, is filed along with an application for interim relief, the officers are well advised to consider the application for interim relief at the earliest, preferably, within a period of two weeks, to avoid further complications.

5 Accordingly, we direct the first respondent to consider the petitioner's application for interim relief as early as possible, preferably within a period of two weeks and also to consider the petitioner's main application within the statutory period prescribed under the provisions of law, on its own merits and in accordance with law, in the light of the order dated 29th September 2015 passed by a Division Bench of this Court in

Lalithkumar C. Soni Vs. Government of Tamil Nadu and others¹. It is made clear that for a period of two weeks from today, i.e., 18 March 2016, status quo as obtained today, in respect of the property in question, shall be maintained by both the parties and the petitioner is restrained from making any further construction in the property in question.

With the above directions, the writ petition stands disposed of sans costs.

cad

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

1 The Secretary to the Government
Housing and Urban Development Department
Government of Tamil Nadu
Fort St. George Chennai 600 009

2 The Commissioner
Corporation of Chennai
Ripon Buildings Chennai 600 009

3 The Executive Engineer
Town Planning - Enforcement
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II Cross Street (East)
Pulla Avenue Shenoy Nagar
Chennai 600 030

4 The Assistant Executive Engineer
Division - 78, Zone 6
Corporation of Chennai, Chennai

+ 1 cc to Mr.K.Kannan, Advocate, SR 17513

+ 1 cc to Govt.Pleader, High Court, Madras SR 17343

sv(co)
prk6/4

W.P. No.10103 of 2016

1 2015 (6) CTC 107 : (2015) 7 MLJ 394 : 2015 (2) CWC 752