

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL
AND
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.P.No.13887 of 2016
and
W.M.P.No.12181 of 2016

M/s.East Gate Apartment Owners
Welfare Association rep. by
their Secretary S.Gowri .. Petitioner

Vs.

1.Govt. of Tamil Nadu
rep. by Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 9.

2.Thiruchirapalli Town Planning Authority
rep. by its Member Secretary,
Trichy. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to consider and dispose of the petitioner's application dated 25.02.2016 under Sections 80 A and 80 (A) (3) of the Town and Country Planning Act and forbear the second respondent from in anyway interfering with the building, particularly by way of locking and sealing and demolition of the same pending disposal of the application by the first respondent.

For Petitioner: Mr.D.S.Rajasekaran
For Respondents: Ms.A.Srijayanthi,
Spl. Govt. Pleader

ORDER

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

Heard both sides.

2.By consent, the main writ petition is taken up for final disposal at the admission stage itself.

3.According to the petitioner, the members of the Association had purchased the respective flats with undivided share of the land in T.S.Nos.5/1, Part 2a, 2b, 2c and 2d in approved layout at TVTK No.6/2009 in Ponmali Division, Ward AB, Block-1, Tiruchirapalli District from one R.Chandramohan represented by his Power Agent Ravichandran and constructed by the Developer P.Jayakumar during the year 2012-13. Also, the petitioner Association's vendor had obtained sanction for construction of stilt floor plus 2 floor and 3rd floor part, consisting of 12 dwelling units from the second respondent.

4.It comes to be known that the petitioner/Association had at an earlier point of time, projected O.S.No.121 of 2015 on the file of the learned District Munsif, Trichy and it is represented on behalf of the petitioner/Association that since the official respondents were set exparte, interim injunction was granted as prayed for in the application.

5.It transpires that the second respondent, instead of taking steps to set aside the exparte order of the trial Court in the aforesaid suit, had once again issued a locking and sealing and demolition notice dated 23.02.2016 under Section 56 (2)(a) of the Tamil Nadu Town and Country Planning Act, 1971 (for short 'the Act') to all the occupiers including some of the members of the petitioner/Association calling upon them to vacate their respective premises within a period of seven days to enable them to carry out locking and sealing action.

6.Being dissatisfied with the action taken by the second respondent, the petitioner/Association had approached the first respondent/Secretary to Government, Housing and Urban Development Department, Chennai - 9 and projected an application under Section 80-A of the Act to examine the decision of the authority concerned. It appears that the said application is pending. Also the stay application dated 25.02.2016 filed under Section 80A(3) of the Act is pending.

7.In view of the fact that the application for interim relief dated 25.02.2016 filed under Section 80A(3) of the Act with the Government is pending as on date and also the application filed is pending before the first respondent, this Court, without traversing upon the merits of the matter, simpliciter in the interest of Justice, Fair play, Equity, Good conscience and even as a matter of prudence, directs the First Respondent to take up the application for interim relief dated 25.02.2016 and to dispose of the same within a period of two weeks from the date of receipt of a copy of this order and also

dispose of the pending Appeal dated 25.02.2016, within the statutory period prescribed under the Act. It is needless to make a second mention that the First Respondent is to provide adequate/enough opportunity to the petitioner/Association and others concerned while arriving at a decision in the pending matter in stay/application and to pass a reasoned speaking order in qualitative and quantitative terms, that too, in an objective and dispassionate manner. It is open to the petitioner to raise all factual and legal pleas before the First Respondent. Till the stay application is disposed of within a period of two weeks as adumbrated above, there shall be an order of status quo prevailing as on date.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 9.

2. The Member Secretary,
Thiruchirapalli Town Planning Authority,
Trichy.

+ 1 cc to MR.D.S. Rajasekaran, Advocate Sr.23442

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RSY(CO)
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