

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.14922 of 2015
and MP.No.1 of 2015

T.R.Muralidharan

...Petitioner

vs.

- 1 The State of Tamilnadu
rep. by its Secretary
Housing and Urban Development Dept.,
Fort St. George, Chennai-9
- 2 The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai-3
- 3 The Executive Engineer
Corporation of Chennai
Zone XIV, Puzhuthiwakkam Main Road
Puzhuthiwakkam
Chennai-91

...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the 1st respondent order made in letter No.9549/UD-VI(2)/2014-3 dated 28.4.2015 in rejecting petitioner's Section 80-A appeal filed under Town and Country Planning Act as against locking and sealing decision of Corporation of Chennai for the building put up at No.312/5B & 5C, Nehru Nagar (Originally known as Venkateswara Colony) 3rd Cross Street, Kottivakkam, Chennai-41 by quashing the same and consequently direct the respondents to regularise the building put up in the aforementioned property.

For Petitioner : Mr.R.Mohan
For Respondents : Mr.P.S.Sivashanmuga Sundaram
Spl.G.P for R1
Mr.V.C.Selvakumar,
Standing Counsel for R2 & R3

O R D E R
(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel for the petitioner, learned Special Government Pleader for the first respondent and the learned Standing counsel for respondents 2 and 3.

2. The Writ Petition is filed seeking to quash the order of the 1st respondent made in letter No.9549/UD-VI(2)/2014-3 dated 28.4.2015 and for a consequential direction to the respondents to regularise the building put up in the aforementioned property.

3. The petitioner filed Appeal under Section 80-A of the Town and Country Planning Act, 1971, before the first respondent against the locking and sealing and Demolition notice dated 20.05.2014 issued by the third respondent, the Executive Engineer, Corporation of Chennai. The first respondent, by the impugned order dated 28.04.2015, rejected the said appeal stating that it is a premature one. The said order is put to challenge in this Writ Petition.

4. The learned counsel for the petitioner submits that the first respondent has not considered the appeal filed by the petitioner in proper perspective and the rejection is not sustainable. In support of his contention, the learned counsel relied on the decision of a Division Bench of this Court reported in 2015 (2) CWC 752 [Lalith Kumar C.Soni Vs. The Government of Tamil Nadu].

5. We have given our anxious consideration to the decision reported in 2015 (2) CWC 752 [Lalith Kumar C.Soni Vs. The Government of Tamil Nadu], wherein, in the penultimate paragraph No.15, it is observed as follows:-

"15. We, therefore, hold that a Special Revision Petition under Section 80-A of the Act is maintainable before the Government against the decision taken by the appropriate Planning Authority in respect of locking and sealing the premises under sub-section (2-A) of Section 56 or under sub-section (4) of Section 57, even before resorting to the act of locking and sealing. In short, sealing the premises is not a condition precedent for filing Special Revision Petition under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Tamil Nadu Act 61 of 2008."

6. In the above said decision, the Division Bench of this court further gave liberty to the petitioners therein to represent the Special Revision Petitions under Section 80-A of the Act before the Government. It was further pointed that in case of such re-representation within a period of two weeks, every effort shall be taken by the Government to dispose of the matter within the statutory period.

7. In view of the above legal position, the impugned order dated 28.04.2015 passed by the first respondent is set aside. The petitioner is given liberty to represent the Revision/Appeal Petition under Section 80-A of the Act before the Government/1st respondent herein. In case of such re-representation within a period of two weeks, every effort shall be taken by the Government to dispose of the matter within the statutory period after affording sufficient opportunity to the petitioner.

8. The Writ Petition stands allowed on the above terms. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nvsri
To

- 1 The State of Tamilnadu
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Zone XIV, Puzhuthiwakkam Main Road
Puzhuthiwakkam
Chennai-91

+1cc to Mr.R. Mohan, Advocate, S.R.No.29173
+1cc to the Government Pleader, S.R.No.29825

NR(CO)
EU(20/06/2016)

W.P.No.14922 of 2015