

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.18100 of 2016
and WMP.No.15866 of 2016

EM.PR.Muthappan

...Petitioner

Vs.

- 1 The Corporation of Chennai
Rep. by its Commissioner
Ripon Buildings
Chennai 600 003.
 - 2 The Executive Engineer
Enforcement Region(Central)
Corporation of Chennai
2nd Cross street, Shenoy Nagar
Chennai 600 003.
 - 3 The Government of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development
Fort St. George Chennai 9
- ...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring that the lock and seal of the building at Door No.22, North Mada Street, Mylapore Chennai 600 004 by the 1st Respondent is null and void regarding the petitioner concern.

For Petitioner : Mr.L.Chandrakumar for
Mr.N.Chinnaraj
For Respondents : Mr.R.Arunmozhi,
Standing Counsel for R1 and R2
Mr.P.Sanjay Gandhi, AGP for R3

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel for the petitioner, the learned Standing counsel for respondents 1 and 2 and the learned Additional Government Pleader for the third respondent.

2. It appears that in connection with the alleged violation of building plan by the petitioner, the 2nd respondent has issued the Locking & Sealing and Demolition Notice dated 01.09.2015 to the petitioner's building under Section 56 and 57 read with Section 85 of the Tamil Nadu Town and Country Planning Act, 1971 as amended by Act 61 of 2008. Consequently, the petitioner filed Revision Petition to the 3rd respondent under Section 80-A(3) of the Act on 12.09.2015. Subsequently, by letter dated 12.11.2015, the petitioner sought two weeks time to attend the hearing. According to the petitioner, no order has been passed in his revision application dated 12.09.2015 filed along with stay application and before the expiry of the statutory period of 90 days, the third respondent, by letter dated 09.12.2015, directed the petitioner to stop all construction and demolish the same within one month time. Aggrieved by the same, the present Writ Petition is filed before this court.

3. Having considered the submissions made before this court and on a perusal of the typed set of papers filed before this court, we are of the view that the hasty action taken by the third respondent in issuing direction to stop all construction forthwith and to demolish the construction already made is superfluous. On the other hand, it is seen that by letter dated 12.01.2016, the third respondent has granted 3 months time to the petitioner to do necessary alterations/rectification in the building. Therefore, when time is granted to the petitioner, the respondent authorities should have called for the compliance report from the petitioner and after verification of such compliance, should have gone for coercive action like Locking & Sealing and Demolition Notice. However, in the case on hand, the lock and seal notice was issued as early as on 01.09.2015 in a hasty manner without waiting for compliance report from the petitioner.

4. In view of the foregoing discussion, we are inclined to direct the second respondent to remove the lock & seal of the building at Door No.22, North Mada Street, Mylapore, Chennai-600 004, so that necessary rectifications could be carried out by the petitioner. The petitioner is granted another 90 days time from today to comply with the requirements as set out by the authorities concerned. In any event, it is for the respondents to verify the same after the expiry of 90 days and in case of any non-compliance of the rules and regulations set out in the statutes, it is open to them to take action in accordance with law.

5. The Writ Petition stands ordered on the above terms.
No costs. Consequently, connected MP is closed.
nvsri

-s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

- 1 The Commissioner, Corporation of Chennai
Ripon Buildings ,Chennai 600 003.
 - 2 The Executive Engineer
Enforcement Region (Central) , Corporation of Chennai
2nd Cross street, Shenoy Nagar, Chennai 600 003.
 - 3 The Secretary to Government
Government of Tamil Nadu
Housing and Urban Development
Fort St. George, Chennai 9
- + 1 cc to Mr.N.Chinnaraj, Advocate SR 29402
+ 1 cc to Mr.R.Arunmozhi, Advocate SR 29055
- scd(co)
prk3/6
- W.P.No.18100 of 2016

सत्यमेव जयते

WEB COPY