

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2016

CORAM

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

Writ Petition No.18323 of 2016
and WMP.No.16029 of 2016

Popat Lal

..Petitioner

Vs.

- 1 Government of Tamil Nadu
Rep.by its Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-600 009.
- 2 Chennai Metropolitan Development Authority
Rep.by its Member Secretary
No.1, Gandhi-Irwin Road
Egmore, Chennai-600 008 ...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in their letter of rejection of the Section 80-A Appeal petition under the Tamil Nadu Town and Country Planning Act 1971 No. 22219/UD6(2)/ 2015-1 dated 13.11.2015 and letter No. 3680/UD-VI(2) 2016 dated 17.03.2016 relating to the building put up at No.21/11 Arumugam Street, Kothaval Chavadi, Chennai-600 001 and quash the same and direct the 2nd respondent to forbear from in anyway interfering with the aforesaid building particularly by way of demolition till the Application for regularization under Section 49 of the Act dated 15.12.2015 is disposed off in accordance with law by the 2nd respondent.

For Petitioner : Mr.M.Vembadiyan

For Respondents : Mr.P.S.Sivashanmuga Sundaram
Special Govt.Pleader for R1
Mr.C.Johnson for R2

O R D E R

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

Heard the learned counsel for the petitioner, Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader for the 1st respondent and Mr.C.Johnson, learned Standing counsel for the 2nd respondent.

2. This Writ Petition is filed praying to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in their letter of rejection of Section 80-A Appeal under the Tamil Nadu Town and Country Planning Act, 1971, No.22219/UD6(2)/2015-1 dated 13.11.2015 and letter No.3680/UD-VI (2)/2016 dated 17.03.2016 relating to the building put up at No.21/11, Arumugam Street, Kothaval Chavadi, Chennai and to quash the same and consequently, to direct the 2nd respondent not to interfere with the said building particularly by way of demolition till the Application for regularization under Section 49 of the Act dated 15.12.2015 is disposed of.

3. The 1st respondent/Government, by impugned order dated 13.11.2015, rejected the petitioner's appeal against the De-occupation Notice issued by Corporation of Chennai and granted 30 days time to rectify the deviations. Thereafter, the petitioner filed appeal under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter called as "Act") and the same was also rejected by the 1st respondent stating the the Chennai Metropolitan Development Authority should dispose the regularization application of the petitioner immediately and any action to demolish the building should be initiated only after disposal of the regularization application of the appellant/petitioner.

4. Taking into consideration the pendency of the petitioner's application for regularization under Section 49 of the Act from 15.12.2015, we are inclined to quash the orders impugned herein. Accordingly, the impugned orders dated 13.11.2015 and 17.03.2016 are quashed, with liberty to the 2nd respondent-CMDA, to pass a reasoned order on the Section 49 application for regularization dated 15.12.2015. Pending disposal of the said application dated 15.12.2015, there shall be an order of status quo. The petitioner is at liberty to prefer application before the respondents seeking to de-seal the premises in question. When such an application is made, it is for the respondents 1 and 2, to pass orders regarding de-seal, so as to enable the petitioner to rectify the defects as pointed out in the rejection order.

5. The Writ Petition is allowed on the above terms. No costs. Consequently, connected WMP is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

nvsri

To

1 The Secretary to Government
Government of Tamil Nadu, Housing and Urban Development
Department, Secretariat, Chennai-600 009.

2 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi-Irwin Road
Egmore, Chennai-600 008

1 cc to M/s.M. Vembadiyan, Advocate, sr. 34877

1 cc to Government Pleader, Sr. 34961

1 cc to MR.C. Johnson , Advocate, Sr. 34517

W.P.No.18323 of 2016

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