

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE DR. JUSTICE P. DEVADASS

W.P. No.40978 of 2015 and M.P. No.1 of 2015

Dr. B. Chendilnathan

Petitioner

Vs.

- 1 Government of Tamil Nadu
represented by its Secretary
Housing and Urban Development Department
Secretariat, Chennai - 600 009
- 2 Chennai Metropolitan Development Authority
represented by its Member Secretary
No.1, Gandhi Irwini Road
Egmore, Chennai 600 008
- 3 The Regional Joint Commissioner - South
South Zone
Chennai Corporation
No.118, L.B. Road
Adyar, Chennai - 600 020

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the second and third respondents to forbear them from in any way interfering with the hospital premises at S.No.25, 26 and 25A, Door No.7/14, Jagannathapuram, 8th Cross Street, S. No.454/1, 455/1B, Sri Rajalakshmi Nagar, Velachery Village, Chennai - 42, particularly by way of locking, sealing and or demolition, pending final determination of the petitioner's application dated 22.12.2015 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (special power) by the first respondent.

For petitioner Mr. D.S. Rajasekaran

For R1 Mr. M. Sivashanmugasundaram,
Spl. Govt. Pleader

For R2 Mr. K. Raja Srinivas, Standing Counsel

For R3 Mr. V.C. Selvasekaran, Standing Counsel

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. K. Raja Srinivas, learned Standing Counsel, accepts notice for the second respondent. Mr. V.C. Selvasekaran, learned Standing Counsel, accepts notice for the third respondent. 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 and 3 from in any way interfering with the hospital premises at S.No.25, 26 and 25A, Door No.7/14, Jagannathapuram, 8th Cross Street, S.No.454/1, 455/1B, Sri Rajalakshmi Nagar, Velachery Village, Chennai - 42, particularly, by way of locking, sealing and or demolition, pending final determination of the petitioner's application dated 22 December 2015 under Section 80-A of the Tamil Nadu Town and Country Planning Act, 1971 (for short "the Act") by the first respondent.

3 From a perusal of the records, it is seen that the second respondent, viz., Chennai Metropolitan Development Authority, has addressed a letter to the Regional Joint Commissioner-South, South Zone, Chennai Corporation, requesting the latter to take necessary enforcement action against the construction in question, with a copy marked to the petitioner. Thereagainst, the petitioner has preferred an application before the first respondent under Section 80-A of the Act on 22 December 2015, which is pending 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, wherein, one of us (Satish K. Agnihotri, J.) was a Member, 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., 05 January 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. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat, Chennai - 600 009
- 2 The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwini Road
Egmore, Chennai 600 008
- 3 The Regional Joint Commissioner - South
South Zone
Chennai Corporation
No.118, L.B. Road
Adyar, Chennai - 600 020

+1cc to M/s. K. Rajasrinivas, Advocate, S.R.No.439
+1cc to M/s. D.S. Rajasekaran, Advocate, S.R.No.202
+1cc to the Government Pleader, S.R.No.580

ALA(CO)
EU(12/01/2016)

W.P. No.40978 of 2015

1 W.P.Nos. 16392 of 2015 batch.