

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.41003 of 2015 and M.P. No.1 of 2015

Bala

Petitioner

Vs.

- 1 Government of Tamil Nadu
rep. by the Principal Secretary to Government
Housing and Urban Development Department
Secretariat
Fort St. George
Chennai 600 009
- 2 Chennai Metropolitan Development Authority (CMDA)
represented by the Member Secretary
Thalamuthu Natarajan Maaligai
Egmore, Chennai 600 008

Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the first respondent to dispose of the petitioner's appeal dated 09.12.2015 filed against notices in No.A-1028 dated 04.11.2015 and letter no.EC/EN-II/18529/2015 dated 23.11.2015 issued by the second respondent within a reasonable time to be fixed by this Court; without proceeding with any further adverse action against the subject premises by the respondents and their subordinates in any manner affecting or disturbing the petitioner's peaceful possession and enjoyment of the same, with the present physical features.

For petitioner Mr. Neelakandan
for Mr. R. Krishnaswamy

For R1 Mr. P.S. Sivashanmugasundaram
Spl. Govt. Pleader

For R2 Mr. N. Sampath, Standing Counsel

ORDER
(delivered by SATISH K. AGNIHOTRI, J.)

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. N. Sampath, learned Standing Counsel, accepts notice for the second 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 directing the first respondent to dispose of the petitioner's appeal (sic) application dated 09 December 2015 and further, for a direction to the second respondent not to proceed with any action in respect of the subject premises, disturbing the petitioner's peaceful possession and enjoyment of the same, with the present physical features.

3 From a perusal of the records, it is seen that the second respondent, viz., Chennai Metropolitan Development Authority, has issued a stop work notice/notice calling for approved plan on 04 November 2015 under Sections 56 and 57 read with Section 85 of the Act against the petitioner, followed by, locking, sealing, demolition and de-occupation notice dated 23 November 2015 under the very same provisions. Thereagainst, the petitioner has preferred an application before the first respondent under Section 80-A of the Act on 09 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.,

1 W.PNos. 16392 of 2015 batch.

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.

cad

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1 The Principal Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat
Fort St. George
Chennai 600 009
 - 2 The Member Secretary
Chennai Metropolitan Development Authority (CMDA)
Thalamuthu Natarajan Maaligai
Egmore, Chennai 600 008
- + 1 cc to Mr.N.Sampath, Advocate SR 1213
+ 1 cc to Govt.Pleader SR 592
+ 1 cc to Mr.V.Ajoy Khose, Advocate SR 343

skv(co)
prk19/1

सत्यमेव जयते

W.P. No.41003 of 2015

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