

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2016

CORAM

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

Writ Petition No.24010 of 2016
and WMP.No.20530 of 2016

Rakesh Kumar Baid

...Petitioner

Vs.

- 1 Government of Tamilnadu
rep. by its Secretary to Government
Housing & Urban Development Department
Secretariat
Chennai-9
- 2 Greater Chennai Corporation
Rep. by its Commissioner
Ribbon Buildings
Chennai-3
- 3 Greater Chennai Corporation
rep. by its Executive Engineer, Zone V
61, Basin Bridge Road
Chennai 600 021

...Respondents.

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 2nd and 3rd respondents from in anyway interfering with the petitioners building at No.94/2(41/2) Ground Floor, Narayana Mudali Street, George Town, Sowcarpet, Chennai 600 079 particularly by way of Locking and Sealing and or Demolition of the same, pending final determination of the petitioner's application under Sec. 80(A) and 80(A)(3) of the Act dated 16.5.2016 by the 1st respondent.

For Petitioner : Mr.D.S.Rajasekaran

For Respondents : Mrs. A.Srijayanthi,
Special Government Pleader for R1
Mr.R.Arunmozhi 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, Mrs.A.Srijayanthi, learned Special Government Pleader, who accepts notice for the 1st respondent and Mr.R.Arunmozhi, learned Standing Counsel, who accepts notice for respondents 2 and 3.

2. This Writ Petition is filed praying to issue a Writ of Mandamus forbearing the 2nd and 3rd respondents from in anyway interfering with the petitioners building at No.94/2(41/2), Ground Floor, Narayana Mudali Street, George Town, Sowcarpet, Chennai 600 079, particularly by way of Locking and Sealing and or Demolition of the same, pending final determination of the petitioner's application under Sec. 80(A) and 80(A)(3) of the Act dated 16.5.2016 by the 1st respondent.

3. It is averred in the Writ Petition that the petitioner by virtue of Sale Deed dated 16.03.2009, occupied the Petition mentioned premises from one Prakash Chand/Vendor and occupied the same and that the Vendor, on receipt of rejection of regularisation of the existing deviated construction by the CMDA, filed appeal under Section 79 of the Town and Country Planning Act, (hereinafter called as "Act") and the said appeal is pending till date before the 1st respondent. It is also averred that the 3rd respondent issued a Locking & Sealing and Demolition Notice and de-occupation Notice dated 29.04.2016 and therefore, the petitioner is stated to have filed application under Section 80(A) of the Act and the stay petition under Section 80(A)(3) of the Act on 16.05.2016 and awaiting the order by the 1st respondent in the appeal dated 16.05.2016, the petitioner is before this court with the above prayer.

4. Considering the above averments made in the Writ Petition and also the submissions made by the learned counsel on either side, we hereby direct the 3rd respondent not to take any coercive steps against the petitioner till a decision is taken by the 1st respondent. On the other hand, the 1st respondent is directed to consider and dispose of the Petitioner's appeal filed under Section 80(A) of the Act, within 2 months from the date of receipt of a copy of this order, after affording an opportunity to the petitioner. Till then, there shall be an order of status quo.

5. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary to Government,
Government of Tamilnadu,
Housing & Urban Development Department,
Secretariat,
Chennai-9.
- 2 The Commissioner,
Greater Chennai Corporation,
Ribbon Buildings,
Chennai-3.
- 3 The Executive Engineer,
Greater Chennai Corporation,
Zone V,
61, Basin Bridge Road,
Chennai 600 021.

+1cc to Mr.D.S.Rajasekaran, Advocate, S.R.No.38867
+1cc to Mr.A.Arunmozhi, Advocate, S.R.No.39022
+1cc to the Government Pleader, S.R.No.38363

सत्यमेव जयते

W.P.No.24010 of 2016

WEB COPY

rj(CO)
srg(27/07/2016)