

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.8.2016

CORAM

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

W.P.No.27490 of 2016

N.G.Deivakadatcham

Petitioner

Versus

1 The Secretary to Government
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai-600 009.

2 Paturu Parthasarathy

3 Paturu Radhakrishna

Both are rep. by their Power of Attorney
P.Venugopal

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the 1st respondent to implead the petitioner in unnumbered Revision Petition No. of 2015 dated 29.7.2015 filed by the 2nd and 3rd respondents and consequently direct the 1st respondent to dispose of the same within a time frame stipulated by this Honourable Court.

For petitioner : Mr.S.Sankar

For R1 : Mr.R.Prathapkumar, AGP

ORDER

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

Heard the learned counsel appearing for the petitioner and Mr.R.Prathapkumar, learned Additional Government Pleader appearing for the first respondent. Notice is dispensed with sofar as respondents 2 and 3 are concerned.

2. The writ petition has been filed seeking issuance of a writ of mandamus directing the 1st respondent to implead the petitioner in unnumbered Revision Petition No. of 2015 dated 29.7.2015 filed by the 2nd and 3rd respondents and consequently direct the 1st respondent to dispose of the same within a time frame stipulated by this Court.

3. The petitioner is the co-owner of the property situate at Nos.119 and 120, Old No.28-B, Pillaiyarkoil Street, Arumbakkam, Chennai 600 0016 and a part of it is said to have been alienated in favour of respondents 2 and 3 by the erstwhile owner who were co-parceners/persons who were entitled to share in the property. Respondents 2 and 3 sought to initiate proceedings, before the first respondent, in the Revision under Section 80A of the Town and Country Planning Act, challenging the lock and seal notices issued to them by the Corporation of Chennai.

4. The grievance of the petitioner is that when the suit in C.S.No.441 of 2005 is pending for consideration in respect of the same property, respondents 2 and 3 and lock and seal notice was issued by the authority at the instance of the petitioner, respondents 2 and 3, claiming that they have purchased the property from the erstwhile owner, filed an application under section 80A of the Act, and therefore, the decision of the authority in this regard shall be subject to the result of the suit and pending disposal of the suit, no coercive action should be taken against the petitioner pursuant to revision under section 80A of the Act as it would be prejudicial to the petitioners right, title, etc. In the circumstances, the petitioner has filed application before the first respondent authority for impleading himself in the revision/appeal filed under section 80A of the Act.

5. Therefore, the case of the petitioner shall be considered by the first respondent, in accordance with law, to protect the interest of the petitioner and not to take coercive action against the petitioner and also to look into the right and title of the parties that has to be identified by the civil court. The authority has to take a decision on the above aspects and till a decision is taken by the civil court with regard to entitlement of the property as per the legitimate right, identifying the share of the co-parceners of the property, no coercive action shall be taken against the petitioner.

6. With the above observation, the writ petition is disposed of making it clear that the right of the petitioner to participate in the proceedings initiated by respondents 2 and 3 is very much available to him. No costs.

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Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To:

The Secretary to Government
Housing and Urban Development Department
Secretariat Fort St. George Chennai-600 009.

+1 cc to M/s.S.Sankar, advocate, sr.45137.

rp(co)
krd 30/8

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