

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

CORAM:

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

W.P. No.293 of 2016 and W.M.P. No.185 of 2016

Kannan

Petitioner

vs.

1 The Managing Director/The Chairman
Tamil Nadu Slum Clearance Board
No.5, Kamaraj Salai
Chennai 600 005

2 The Estate Officer - 4
Tamil Nadu Slum Clearance Board
No.2, Thiagarayar Salai
Teynampet
Chennai 600 018

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to dispose of the petitioner's appeal dated 02.11.2015 preferred under Rule 9 (1) and 9(3) of the Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules, 1971, against the proceedings of second respondent in Na.Ka.No.830/A/I-A-4/2015 dated 01.09.2015 in Form A and consequential proceedings in Na.Ko.No.830/A/I-A-4/2015 dated 16.09.2015 in Form B within a time frame.

For petitioner Mrs. R. Anitha

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

This writ petition is filed seeking a writ of mandamus directing the first respondent to dispose of the petitioner's appeal dated 02 November 2015 preferred under Rule 9 (1) and 9(3) of the Tamil Nadu Slum Clearance Board (Control and Management of Properties) Rules, 1971, against the proceedings of second respondent in Na.Ka.No.830/A/I-A-4/2015 dated 01 September 2015 in Form A and consequential proceedings in Na.Ko.No.830/A/I-A-4/2015 dated 16 September 2015 in Form B, within a time frame.

2 The petitioner, stated to be a bunk shop owner, has come up earlier in W.P. No.33290 of 2015 seeking the following relief:

"Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the second respondent in Proceedings in Na.Ko.No.830/A/I-A-4/2015 dated 01.09.2015 in Form A and consequential proceedings in Na.Ko.No.830/A/1-A-4/2015 dated 16.09.2015 in Form B and quash the same and consequently, restrain the respondents, their men, agent, servant or any other person claiming through or under them from in any manner, preventing the petitioner from running the bunk shop as stated in the Schedule."

3 A Division Bench of this Court, wherein, one of us (Satish K.Agnihotri,J.) was a Member, vide order dated 26 October 2015, disposed of the said writ petition in the following terms:

"6 We are of the considered view that no extraordinary circumstance has arisen to invoke the jurisdiction of this Court when an effective statutory remedy of appeal before the Chairman of the respondent Board is available. Needless to state that there is a provision for obtaining ad-interim relief also under sub-rule (3) of Rule 9 of the Rules. Accordingly, it is open to the petitioner to prefer an appeal, as aforestated. For a period of one week from today, i.e., 26 October 2015, the impugned proceedings shall remain stayed, to enable the petitioner to prefer an appeal, if so advised."

4 Seemingly, pursuant thereto, the petitioner has preferred the appeal dated 02 November 2015. Without affording a reasonable time to the Appellate Authority to consider and pass orders on the appeal, the petitioner has virtually rushed to this Court with the instant writ petition. This is a clear case of misuse of judicial process. Thus, we are not inclined to issue any direction. However, it is expected that the Appellate Authority would consider the petitioner's appeal on its own merits and in accordance with law and take a decision within a reasonable time.

The writ petition stands disposed of with the above direction, sans costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cad



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To

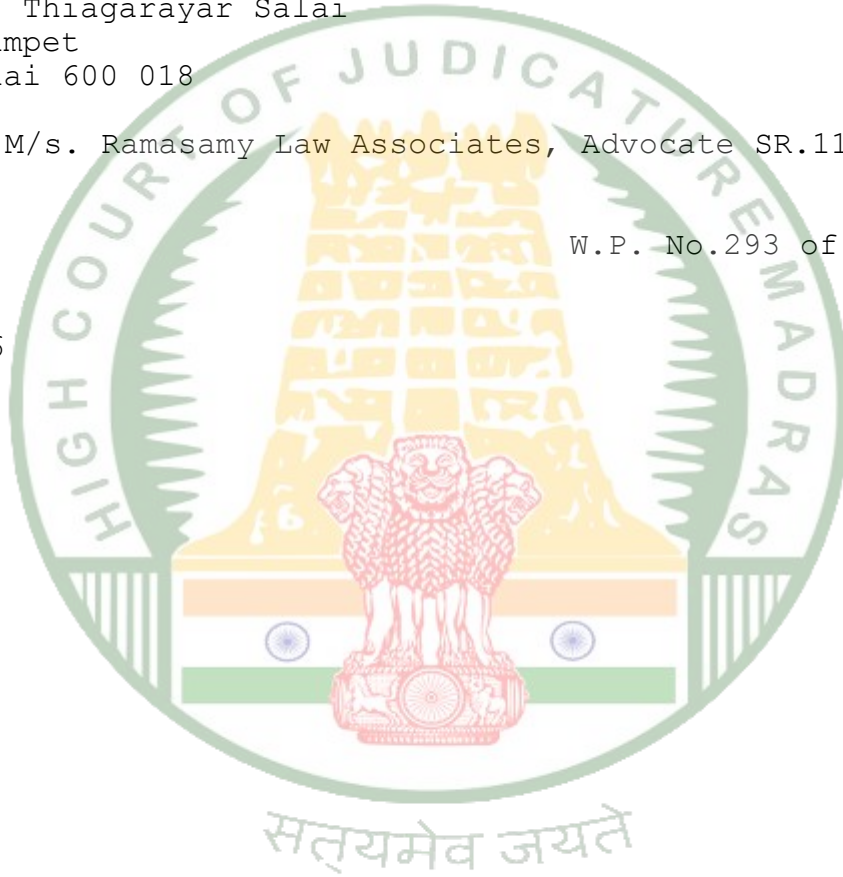
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+ 1 cc to M/s. Ramasamy Law Associates, Advocate SR.1126

W.P. No.293 of 2016

GJ(CO)
EU 29.1.16



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