

In the High Court of Judicature at Madras

Dated : 02.08.2017

Coram

The Honourable Mr.Justice R.SUBBIAH
and
The Hon'ble Mr.Justice A.D.JAGADISH CHANDIRA

W.P No.19836 of 2017

and

WMP No.21407 of 2017

The Secretary,
Abilash Apartments Residents Welfare Association,
(Regd. No486//98),
No.6 (Old No.75), Lakshmi Nagar IV Stage,
Nanganalur, Chennai - 600 061

... Petitioner

..vs..

1. The Additional Principal Secretary,
Health and Urban Development,
Government of Tamil Nadu,
Secretariat, Chennai - 9

2. The Assistant Commissioner,
Greater Chennai Corporation,
Zonal Officer/Zone 12,
Alandur,
Chennai -600 016

..Respondents

Writ Petition filed under Article 226 of the
Constitution of India praying this Court to issue a Writ of
Mandamus to direct the first respondent to consider the
Statutory Appeal filed on 18.07.2017 against the Locking
and Sealing Notice in Letter No.01/2017 dated 22.06.2017
issued by the second respondent herein and dispose it
within the time frame as may be fixed by this Court.

For petitioner : Mr.K. Thiruvengadam

For R.1 : Mr.P. Sanjay Gandhi
AGP

For R.2 : Mr.R. Arunmozhi

ORDER

(Judgment of the Court was delivered by R. SUBBIAH, J.,)

The petitioner has filed the present writ petition seeking for an issuance of a Writ of Mandamus to direct the first respondent to consider the Statutory Appeal filed on 18.07.2017 against the Locking and Sealing Notice in Letter No.01/2017 dated 22.06.2017 issued by the second respondent herein and dispose it within the time frame as may be fixed by this Court.

2. Mr.P. Sanjay Gandhi, learned Additional Government Pleader takes notice for the 1st respondent and Mr.R. Arunmozhi, learned counsel takes notice for the 2nd respondent.

3. In the affidavit, filed in support of the petition, it is stated that the petitioner Association is a registered Society and duly registered under Societies Act and its Registration Number is Regd.486/98 and the petitioner Association is having 96 members in 6 Block spread in an extent of 16 grounds of land. The petitioner Association has erected as many as 10 bore wells to provide uninterrupted water supply. It is also stated that the petitioner Apartment has been promoted by the Anubhav Group of Companies and even before completing the project, the Company was closed and at that time, the unsold flats and another 16 vacant grounds were sold by this Court. They have completed only 75% of the construction work for their six blocks. Water Tanks were not sufficiently constructed and was incomplete. The underground water sumps were also not constructed.

4. It is further stated in the affidavit that there was a murder in one of the flats in the first block of the Apartment and the petitioner was instructed to install CCTV Camera and it was also installed. In order to maintain the CCTV Camera, to keep Association's voluminous records, computers, securities shelter, the petitioner Association decided to construct a small Office cum Security Shed in the common utility area and and after obtaining the concurrence from the members, the Association had constructed a small shed in the front side open space available within the apartments. The said shed was constructed as per Clause 8 of the bye laws of the Association and also as per Sections 12 and 13 of the Tamil Nadu Apartment Ownership Act 1994.

5. It is further stated that the second respondent had issued a Notice in Notice No.01Dn-167/2016 dated 7.12.2016 to exhibit or produce the approval for the construction of shed from concerned authorities and also proposed to take steps to seal the premises. Even after giving proper reply to the notice, the first respondent passed orders to seal the security shed by proceedings in ZnXII/C.No.TP/0059/2017 dated 01.06.2017..

6. Challenging the said Notice, the petitioner Association has filed a Writ Petition in WP No.1320/2017 and this Court disposed of the writ petition to challenge the lock and seal notice in the manner known to law and disposed it on 19.6.2017. After that the petitioner association has given suitable reply on 20.6.2017 and again on 22.6.2017. In spite of suitable reply by the petitioner, the second respondent proceeded with it and caused a locking and sealing notice in letter No.01/2017 dated 22.06.2017. Aggrieved over the same, the petitioner has filed an appeal before the 1st respondent along with stay petition on 18.07.2017. Apprehending that the respondents may take coercive action pending disposal of the appeal, the present writ petition is filed.

7. Considering the facts and circumstances of the case, we direct the first respondent to consider the statutory appeal filed by the petitioner on 18.07.2017 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioners within three months from the date of receipt of a copy of this order. Till this disposal of the appeal no coercive steps shall be taken by the respondent authorities. All the contentions raised in this writ petition are left open to be urged by the petitioners before the appellate authority.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected WM is closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Additional Principal Secretary,
Health and Urban Development,
Government of Tamil Nadu,
Secretariat, Chennai - 9

2. The Assistant Commissioner,
Greater Chennai Corporation,
Zonal Officer/Zone 12,
Alandur,
Chennai -600 016

+1cc to Mr.R.Arunmozhi, Advocate sr.55376

+1cc to Mr.K.Thiruvengadam, Advocate sr.55372

+1cc to Government Pleader sr.55742

W.P.No.19836/2017

kj (co)
ss (31/8/2017)



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