

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.26425 of 2018 and
WMP Nos.30723 and 30729 of 2018

R.Saraswathi

...Petitioner

-vs-

- 1.The Assistant Engineer,
Division 142, Corporation of Chennai
Zone X, Saidapet, Chennai - 600 015.
- 2.The Assistant Executive Engineer,
Unit 30 Division 142, Corporation of Chennai
Zone X, Saidapet, Chennai - 600 015.
- 3.The Executive Engineer,
Corporation of Chennai
Zone X, Saidapet, Chennai - 600 015.
- 4.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.

5.M.Kalyani

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus, calling for the records relating to the impugned De-occupation Notice issued by the respondents 1 to 4 dated 28.08.2018 under Section 56(2)(A) and Section 57 r/w Section 85 of Town and Country Planning Act, as amended by Act 61 of 2008 in Letter No.10/00004/2018 dated 28.08.2018 and to quash the same and forbear the respondents from proceeding any further based on the Lock and Seal notice No.10/00004/2018 dated 28.08.2018 pending consideration of application for plan approval and permission dated 31.10.2000 submitted by the land lady of the petitioner.

For Petitioner : Mr.K.N.Natarajan

For Respondents : Mr.A.Nagaraj
Standing Counsel for R1 to R4

O R D E R
[Order of the Court was delivered by
K.K.SASIDHARAN,J.]

The De-Occupation notice issued by the Corporation of Chennai dated 28 August 2018 calling upon the petitioner to discontinue the occupation of the premises in question is under challenge.

2. The notice impugned in this writ petition is amenable to the appellate jurisdiction under the provisions of the Tamil Nadu Town and Country Planning Act, 1971. The Appellate Authority is also having jurisdiction to pass interim orders to maintain status quo during the currency of the appeal. There are no materials before us to bypass the statutory remedy available to the petitioner. We are therefore of the view that the petitioner must avail the alternative remedy available to him.

3. We grant liberty to the petitioner to file an appeal before the competent authority constituted under the provisions of Tamil Nadu Town and Country Planning Act along with an application to grant interim protection during the currency of the appeal. In case, any such appeal is filed on or before 31 October 2018, the same shall be entertained by the Appellate Authority and appropriate orders should be passed on merits either in the main appeal or in the application for interim relief.

4. Status quo as on today shall be maintained till orders are passed by the Appellate Authority either in the appeal or in the application for interim relief, whichever is earlier. We make it clear that in case no such appeal is filed as indicated above, it is open to the concerned statutory authority to proceed further in accordance with law.

5. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Svki

05/10/2018

This Petition coming on hearing on tuesday the Ninth day of october 2018 under the caption for being Mentioned upon hearing the arguments of Mr.K.N.Nataraj, Advocate for the Petitioner herein and Mr.S.R.Rajagopal, Additional Advocate General for Mr.A.Nagaraj, Standing Consel on behalf of the corporation this court made the following order.

This Court passed an order on 5 October 2018 directing the Appellate Authority to dispose of the appeal filed against the De-occupation notice. The Corporation was directed to maintain status quo till the interim application is decided by the Appellate Authority.

2. The learned counsel for the petitioner made a mention before us on 8 October 2018 complaining that inspite of the order passed by order passed by this Court, the premises was sealed by the Corporation.

3. In view of the said submission, we directed the learned Standing Counsel for the Chennai Corporation to take instructions. The matter was thereafter taken up at 12.00 noon. The learned Additional Advocate General appearing on behalf of the Corporation confirmed the fact that on account of lack of communication, the premises was sealed. The learned Additional Advocate General undertook to de-seal the premises. The matter was therefore adjourned to be posted today under the caption for "being mentioned".

4. When the matter is taken up for consideration today, the learned counsel for the petitioner submitted that the officials of the Corporation de-sealed the premises at 4.30 p.m. On 8 October 2018.

5. The learned standing Counsel for the Corporation submitted that only on account of communication problem, the order could not be implemented.

6. In view of the subsequent events relating to de-sealing the premises, no further action is required in the subject matter.

Svki

09/10/2018

सत्यमेव जयते Sd/-

Assistant Registrar (CS -IV)

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Sub Assistant Registrar

To

1. The Assistant Engineer,
Division 142, Corporation of Chennai
Zone X, Saidapet, Chennai - 600 015.

2.The Assistant Executive Engineer,
Unit 30 Division 142, Corporation of Chennai
Zone X, Saidapet, Chennai - 600 015.

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4.The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 600 003.

+1cc to Mr.A.Nagarajan, Advocate SR.No.69795

W.P.No.26425 of 2018

GMV(30/10/2018)



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