

(2014) 09 MAD CK 0088

Madras High Court (Madurai Bench)

Case No: W.P. (MD) No. 15969 of 2014 and M.P. (MD) No. 1 of 2014

DSF Grand Plazas Pvt.
Ltd.

APPELLANT

Vs

The Member
Secretary (Incharge)

RESPONDENT

Date of Decision: Sept. 24, 2014

Hon'ble Judges: R. Mahadevan, J; M. Jaichandren, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

R. Mahadevan, J.

This Writ Petition has been filed praying to issue a Writ of Mandamus to forbear the first respondent or anybody on their behalf from initiating any coercive action of locking and sealing under Town and Country Planning Act with regard to the petitioner's building put up at No. 379, V.E. Road, Tuticorin-628 002 comprised in T.S. No. 1322/2B2 and 1322/2B1, Block No. 14B, Ward No. 2 till the disposal of the petitioner's appeal petition as well as the application seeking exemption under 113-C of the Town and Country Planning Act.

2. By consent, the Writ Petition itself is taken up for final disposal.

3. When the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that since the impugned order, dated 18.08.2014, indicates that the respondents is taking coercive steps in respect of the building in question, he submitted that it would suffice if the appeal to the Government under Section 80-A Town and Country Planning Act along with stay petition filed before the third respondent, dated 15.09.2014, is disposed of, on merits and in accordance with law, within the time stipulated by this Court. He further submitted that till such time the petitioner may be given some protective measures.

4. The learned Special Government Pleader for the respondents submitted that they will dispose of the appeal, dated 15.09.2014, within the reasonable period of time to be granted by this order provided that the appeal, dated 15.09.2014, is in order. He further submitted that the petitioner may be directed not to put up further construction, in any form, until the appeal, dated 15.09.2014, is disposed of, by the third respondent.

5. In reply, the learned counsel appearing on behalf of the petitioner submitted that the petitioner undertakes before this Court that they will not put up any further construction, whatsoever, until the appeal is disposed of.

6. In view of the above, the appellate authority, namely, the third respondent herein, is directed to dispose of the appeal of the petitioner, dated 15.09.2014, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. Till the appeal is disposed of, by the third respondent, the following directions are issued to the petitioner as well as the respondents:-

(i) The respondents are restrained either from evicting or locking and sealing of the premises of the petitioner in question.

(ii) In view of the specific undertaking given by the petitioner at paragraph No. 5 of this order, it is made clear that the petitioner shall not put up any further construction including the sixth floor in question.

(iii) The petitioner should co-operate with the respondents for disposal of the appeal, at the earliest, in any event, within the time stipulated by this Court.

(iv) Since the time is the essence of the order, both parties are to abide by the time granted by this Court.

It is made clear that this Court does not express any opinion or claim made by the petitioner or otherwise in this Writ Petition. The third respondent is directed to dispose of the appeal of the petitioner, dated 15.09.2014, on its own merits and in accordance with law, and pass a speaking order, within the time stipulated by this Court. Till such time, both parties are directed to adhere the conditions stipulated in paragraph No. 6 of this order.

7. With the above directions, the Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.