

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2015

CORAM

THE HON'BLE Mr. JUSTICE **T.S.SIVAGNANAM**

W.P.No.11253 of 2003

ARULMIGU KAPALEESWARAR TEMPLE [PETITIONER]
REP BY THE DEPUTY COMMISSIONER/
EXECUTIVE OFFICER

Vs

1 THE STATE OF TAMILNADU
REP BY THE SECY TO GOVT.
HOUSING AND URBAN DEVELOPMENT DEPT.
FORT ST.GEORGE, CHENNAI-9

2 THE CHENNAI METROPOLITAN DEVELOPMENT AUTHORITY
REP BY ITS MEMBER SECRETARY
No.8 GANDHI IRWIN ROAD,
EGOMORE, CHENNAI-600 008. [RESPONDENTS]

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that the provisions of Rule 19(b)(B-III) of the Development Control Rules for Chennai Metropolitan Area is ultra vires, illegal, unconstitutional and unenforceable in so far it relates to levy and collection and forfeiture of security deposit in so far as the petitioner is concerned in respect of the construction put up by the petitioner at T.S.No.3896/Part, Chamiers Road, Chennai 28.

For Petitioner .. Mrs.Usha Tholkapian

For Respondents .. R.Vijayakumar -R1
Addl.Govt. Pleader

Mr.K.Raja Srinivas - R2

ORDER

With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mrs.Usha Tholkapian, learned Counsel appearing for the petitioner, R.Vijayakumar, the learned Additional Government Pleader appearing for the first respondent and Mr.Raja Srinivas, learned counsel appearing for the second respondent.

3.The petitioner is Arulmigu Kapaleeswarar Temple, Mylapore and in this Writ Petition, the petitioner has challenged the validity of Rule 19 (b) B-III of the Development Control Rules for Chennai Metropolitan, as ultra vires, in so far as it relates to levy and collection and forfeiture of security deposit in so far as the petitioner is concerned in respect of the construction put up by them at T.S.No.3896/Part, Chamiers Road, Chennai-28.

4. At the time when the Writ Petition was entertained, an order of interim injunction was granted on 11.04.2003 and subsequently, the interim injunction was made absolute by an order dated 12.08.2003, restraining the respondents from invoking the Bank Guarantee and the petitioner Temple was directed to keep the Bank Guarantee alive till the disposal of the Writ Petition by renewing the same.

5. It is brought to the notice of this Court by the learned counsel appearing for the respondents that Rules have been amended and Bank Guarantee has been accepted by the respondent in lieu of cash payment.

6. In the light of the subsequent amendment made to the Development Control Rules, nothing survives for further adjudication and the respondent is restrained from invoking the Bank Guarantee under the old Rules and liberty is given to them to proceed in accordance with the new Rules as against the petitioner, if there is any violation, after notice all concerned.

With the above observation, the Writ Petition is dismissed as infructuous. No costs.

07.12.2015

rpa

To

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T.S.SIVAGNANAM, J.

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