

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-02-2015

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI

AND

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

WRIT PETITION No.32235 of 2014

and  
M.P.Nos.1 and 2 of 2014

M/s.Global Software Ltd.,  
Rep. By its Authorised Signatory  
Y.V.Murali Babu  
No.79, TTK Road  
Alwarpet, Chennai 600 018. ... Petitioner

vs

1. The Secretary  
Housing & Urban Development  
Government of Tamilnadu  
Fort St. George, Chennai 600 009

2. The Member Secretary  
Chennai Metropolitan Development  
Authority  
No.1, Gandhi Irwin Road,  
Egmore, Chennai 600 008. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the first respondent culminating with it's impugned order bearing G.O.(3D) No.60, Housing & Urban Development (UDI) Department, dated 30.10.2012, and quashing the same.

For Petitioner : Mr.M.Vaidyanathan

For Respondents : Mr.N.Sakthivel  
Government Advocate for R1

Mr.N.Sampath  
Standing Counsel for CMDA - R2

## ORDER

(Order of the Court was made by SATISH K.AGNIHOTRI, J.)

The petitioner has come up earlier with writ petitions being W.P.No.36664 and 36665 of 2007 questioning the legality of Clause 5 of the notice of demand of balance regularisation fee dated 19.7.2002, as well as the demolition notice dated 31.5.2007, respectively, in respect of the commercial building in question and also for a direction to consider the application for regularisation. A Division Bench of this Court having considered all aspects of the matter, held vide order dated 11.12.2007, that the construction appears to have been completed before 28.2.1999, the cut off date fixed for regularisation under the 1999 Scheme, which was saved by the Apex Court and after recording a finding to the effect that the construction appears to have been completed upto the extent of Ground + Five Floors, reserved liberty to the petitioner to make the payment of balance regularisation fee and further directed the authorities to consider the question of regularisation in accordance with law.

2. According to the petitioner, despite clear order passed by this Court, the authorities have declined to accept the balance fee for regularisation and rejected the application on the ground that as per Chennai Metropolitan Development Authority (CMDA), inspection report dated 15.7.1999, the stage of building was recorded as the building has been completed except flooring for 1<sup>st</sup> Floor and 2<sup>nd</sup> Floor and partition in 4<sup>th</sup> Floor and motor room in Ground Floor as not completed and as the building was not substantially completed before the cut-off date (i.e.) 28.2.1999. The regularisation application was earlier refused vide letter No.C3/13086/99 dated 20.1.2000, for the reason that the construction was not completed before the cut-off date (i.e.) 28.2.1999 for regularisation.

3. The question arises as to whether the authorities can re-consider the part of completion in respect of Ground + Five Floors, the construction of which has been held by this Court as having been completed before 28.2.1999. Now, the first respondent had taken up a new plea before us that since the application for regularisation was rejected vide letter No.Reg.MSB/C6/13086/99 dated 27.5.2007, much earlier to the Court order dated 11.12.2007, the petitioner cannot be permitted to file balance regularisation fee.

4. We have considered the aforesaid aspect carefully.

5. It appears that the instant objection was raised before this Court in W.P.Nos.36664 and 36665 of 2007 also. Despite that, the Division Bench by the subsequent order dated 11.12.2007, had directed the authorities to accept the balance regularisation fee. Thus, it clearly implies that the said contention stood completely overruled.

6.In view of the factual backdrop as aforesaid, we further direct the second respondent-CMDA to accept the balance regularisation fee only in relation to the construction upto the extent of Ground + Five Floors. For this purpose, the petitioner is required to make a fresh application and the said authority is directed to consider the same in the light of the aforesaid observation and also on merits and in accordance with law.

7.The writ petition accordingly, stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Asst. Registrar

/true copy/

Sub Asst. Registrar.

nsv

To:

1. The Secretary  
Housing & Urban Development  
Government of Tamilnadu  
Fort St. George, Chennai 600 009
2. The Member Secretary  
Chennai Metropolitan Development  
Authority  
No.1, Gandhi Irwin Road,  
Egmore, Chennai 600 008.

+1cc to Mr.N.Sampath, Advocate, S.R.No.11335  
+1cc to the Government Pleader, S.R.No.11151

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W.P.No.32235 of 2014

GJ(CO)  
CA(09/03/2015)