

In the High Court of Judicature at Madras

Dated: 29.07.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice  
and  
The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition Nos. 16287 of 2015 and  
28577 of 2008

M/s. Shriram Properties and  
Infrastructures Private Limited  
New No.9, Bazullah Road  
T. Nagar, Chennai-600017  
rep. by its Assistant Vice President  
(Projects) R. Radhakrishnan .. Petitioner in WP.No.16287/2015

M/s. Shriram Properties and  
Infrastructures Private Limited  
New No.9, Bazullah Road  
T. Nagar, Chennai-600017  
rep. by its Chief Operating Officer  
Mr. R. Murugesan .. Petitioner in WP.No.28577/2008

vs.

1. The State of Tamil Nadu  
Rep. by its Secretary  
Housing and Urban Development  
Department, Fort St. George  
Chennai 600009.

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

Prayer: W.P.No.16287/2015 filed under Article 226 of the Constitution of India praying for issue of a Writ of Declaration declaring Rule 19 (b) III B of the Development Control Rules for Chennai Metropolitan Area as illegal, arbitrary, unconstitutional, unenforceable and ultra vires the provisions of Tamil Nadu Town and Country Planning Act, 1971, inasmuch as it relates to the demand of security deposit for development and Sewage Treatment Plant for the proposed development insofar as the petitioner is concerned and to consequently direct the 2<sup>nd</sup> respondent to issue planning permission on the application of the petitioner without insisting on payment of a

total sum of Rs.18,10,00,000/- as security deposit (Rs.17,60,00,000/- for the proposed development + Rs.50,00,000/- for the Sewerage Treatment Plant) in terms of letter No.C3(S)/20454/2013 on the file of the 2<sup>nd</sup> respondent.

W.P.No.28577/2008 filed under Article 226 of the Constitution of India praying for issue of a Writ of Declaration declaring Rule 19 (b) III B of the Development Control Rules for Chennai Metropolitan Area and also Rule 7 of the Rules for Information Technology Park contained in Annexure XV of the Development Control Rules, as ultra view the Tamil Nadu Town and Country Planning Act, 1971, illegal, unconstitutional and unenforceable inasmuch as it relates to the demand of security deposit and caution deposit for the proposed development insofar as the petitioner is concerned, and to consequently direct the 2<sup>nd</sup> respondent to issue planning permission on the application of the petitioner without insisting on payment of a total sum of Rs.5,29,90,000/- as security deposit (Rs.4,41,50,000/- for the proposed development + Rs.88,40,000/- for the Sewerage Treatment Plant) and a sum of Rs.24,94,60,000/- towards caution deposit in terms of letter No.C3/958/2007 dated 18.11.2008 on the file of the 2<sup>nd</sup> respondent.

For Petitioner in : Mr. Balasubramanian  
W.P.No.16287/015 for Poovayya and Co.  
For Petitioner in : Mr. S. Ashok Kumar  
W.P.No.28577/2008

For Respondents : Mr. S.T.S. Murthi, Govt. Pleader  
in both assisted by Mr.V.R.Kamalanathan  
Addl. Govt. Pleader for R1  
Mr. C. Johnson for R2  
Mr. G.A. Baskara Rajan  
Senior Law Officer-CMDA

COMMON ORDER

(Made by The Hon'ble The Chief Justice)

Counter-affidavits have been filed by both the Chennai Metropolitan Development Authority and the State Government.

2. In terms of the affidavit of the CMDA, in a Meeting held on 24.12.2014, a Resolution has been passed as under:

"The Authority resolved to accept the Bank Guarantee in lieu of cash towards Security Deposit for the building, display board, STP, etc., provided the applicant to remit 9% of interest for the total BG amount for a period of 3 years (PP validity period) in cash along with the Bank Guarantee. The Authority further resolved to send necessary proposal to

Government for amendment of Development Regulations."

3. The counter affidavit of the State Government/first respondent in para 11 prays for two months' time to pass an appropriate formal orders in view of the request made by the CMDA/second respondent vide letter dated 23.06.2015, communicating the aforesaid Resolution.

4. We record the aforesaid statement and grant two months' time to do the needful.

5. Insofar as the present petitions are concerned, the same are disposed of as per the interim orders already passed which shall partake the character of the final orders on condition that the amount demanded under the Caution Deposit as well as the amount demanded under the Security Deposit is kept secured by the Bank Guarantees. The Bank Guarantee for Caution Deposit as per orders passed in Writ Petition No.5350 of 2006 has to be kept in force for a period of five years, while for Security Deposit, it has to be kept in force till the completion of the building. No costs.

6. Learned counsel for the CMDA states that a list of 43 other matters have been given to the Registry which are similar in character. Those writ petitions be also taken out and posted on one day.

Sd/-  
Assistant Registrar

True Copy

Sub Assistant Registrar

ATR

Copies to;

1. The Secretary  
State of Tamil Nadu  
Housing and Urban Development  
Department, Fort St. George  
Chennai 600009.
2. The Member Secretary  
Chennai Metropolitan Development Authority  
No.1, Gandhi Irwin Road,  
Egmore, Chennai 600 008.

- 1 cc to M/s.Poovayya and Co. , Advocate Sr.No.34201  
1 cc to Government Pleader.Sr.No.38918  
2 cc to Mr.C. Johnson , Advocate Sr.No.38961

W.P. Nos. 16287 of 2015 & 28577 of 2008

rv(co)pmk.11.8.2015