

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.40542 of 2002

Ethiraj College Trust,
Represented by its Secretary,
Smt.Indirani Sridharan,
No.27, Ethiraj Salai,
Chennai - 600 105. ... Petitioner

Versus

1. State of Tamil Nadu
Rep. by Commissioner &
Secretary to Government,
Housing & Urban Development Department,
Fort St.George, Chennai - 600 009.
2. Chennai Metropolitan Development Authority
Rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Chennai - 600 008. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the provisions of Rule 19(b) (III B) of the Development Control Rules as ultravires, illegal, unconstitutional and unenforceable in so far as it relates to levy and collection of Security Deposit for proposed development and consequently direct the respondents to issue Planning Permission for the proposed development, without insisting upon payment of Security Deposit for the proposed development as contained in Lr.No.C4/5298/2002 dated 18.10.2002 of the 2nd respondent.

For Petitioner : Mr.A.K.Sriram for
M/s.A.S.Kailasam & Associates
For Respondent - R1 : Mr.S.Diwakar
Additional Government Pleader
For Respondent - R2 : Mr.N.Sampath

ORDER

Heard Mr.A.K.Sriram, learned counsel appearing for the petitioner , Mr.S.Diwakar, learned Additional Government Pleader for the first respondent and Mr.N.Sampath, the learned counsel for CMDA, viz., the second respondent herein.

2. In this Writ Petition, the petitioner has sought for a declaration to declare Rule 19(b) (III B) of the Development Control Rules as ultravires, illegal, unconstitutional.

3. An identical prayer was considered by the Hon'ble First Bench of this Court in the case of () in W.P.Nos.16287 of 2015 and 28577 of 2008 and those Writ Petitions were disposed of by a Common Order dated 29.07.2015. The said order reads as follows:

"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 month's 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.

3. Since the relief sought for in this Writ Petition is identical too and covered by the order passed by the Hon'ble Full Bench, as referred supra, this Writ Petition is also disposed of on the same terms. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

1. State of Tamil Nadu
Rep. by Commissioner &
Secretary to Government,
Housing & Urban Development Department,
Fort St. George, Chennai - 600 009.
2. Chennai Metropolitan Development Authority
Rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

+ 1 cc to M/s.A.S.Kailasam and Associates, Advocate SR 61702

+ 1 cc to Mr.N.Sampath, Advocate, SR 61281

(co)
prk23/11

WEB COPY

WP.No.40542 of 2002