

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.5844 of 2015

S.M.Shahera,
No.203,A.K.Swamy Nagar,
1st Street, Secretariat Colony,
Kilpauk,
Chennai - 600 010.

... Petitioner

Versus

1. The Member Secretary,
Chennai Metropolitan Development Authority,
"THALAMUTHU-NATRAJAN BUILDING",
1, Gandhi Irwin Road, Egmore,
Chennai - 600 008.

2. The Commissioner,
Poonamalle Panchayat Union, Poonamallee,
Chennai, Tamil Nadu.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus to direct the respondents to refund a sum of Rs.38,40,000/- [Rupees thirty eight lakhs forty thousand only] collected from the petitioner towards Open Space Reservation charges in connection with the petitioner's building planning permission application SBC No.1106/2013 dated 06.11.2013 vide Receipt No.00820 and 00821 dated 28.05.2014.

For Petitioner : Mr.M.Imthias

For Respondents : Mr.M.Karthikeyan for
Mr.S.Gunasekaran, GA for R2

ORDER

Heard Mr.M.Imthias, learned counsel for the petitioner and Mr.M.Karthikeyan for 1st respondent, Mr.S.Gunasekaran, Government Advocate for 2nd respondent and with the consent of parties, the writ petition itself is taken up for final disposal.

2. The petitioner seeks for a direction to the respondents to refund the amount of Rs.38,40,000/- [Rupees thirty eight lakhs forty thousand only] collected from the petitioner towards Open Space Reservation [OSR] charges in connection with the petitioner's building planning permission dated 06.11.2013. Annexure XX of the Development Control Rules stipulates the reservation of land for community recreational purposes in cases of special buildings/group developments/multistoreyed building developments.

3. It has been mentioned that OSR charges is payable only if the development is between 3,000 sq.mts and 10,000 sq.mts. According to the petitioner, for the first 3,000 sq.mts, there is no OSR charges payable. In this regard, learned counsel for the petitioner referred to the relevant provisions of the Development Control Rules. However, it is stated that the petitioner was not properly guided and as a result of which, the petitioner paid the OSR charges. As the development made by the petitioner is only for 916.30 sq.mts and no OSR charges are payable as per the regulation, a representation was given to the authorities to refund the amount which has been collected from the petitioner. Since, the representation has not been disposed of till date and kept pending since November 2014, the petitioner has approached this court.

4. In the light of the above, without going into the petitioner's contention, there shall be a direction to the 1st respondent to consider the petitioner's representation dated 08.11.2014 which has been received by the 1st respondent on 11.11.2014 on merits and pass appropriate orders in accordance with law within a period of four weeks, after issuing notice to the petitioner and affording an opportunity of personal hearing to the petitioner.

5. This writ petition is disposed of with the above direction. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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gm/gya

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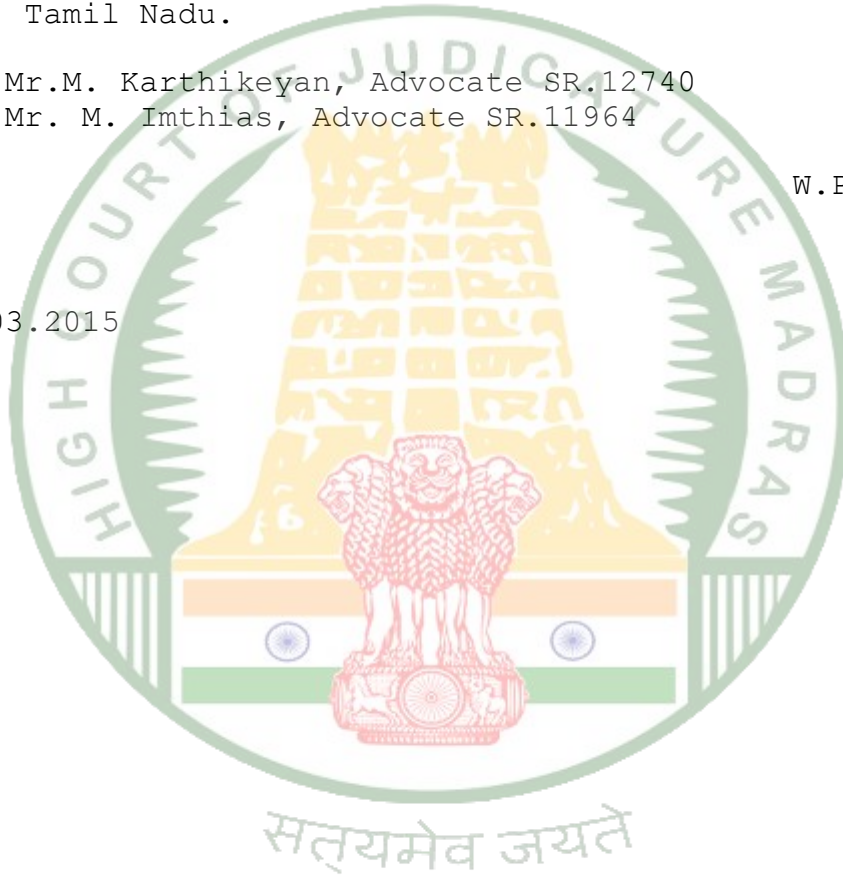
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Chennai, Tamil Nadu.

+ 1 cc to Mr.M. Karthikeyan, Advocate SR.12740
+ 1 cc to Mr. M. Imthias, Advocate SR.11964

W.P.No.5844 of 2015

RSY(CO)
EU 18.03.2015



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