



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2015

CORAM

THE HONOURBLE MR.JUSTICE B.RAJENDRAN

W.P (MD) .Nos.386 and 1079 of 2013
and
M.P. (MD) Nos.1 and 2 of 2013

SHRI RENUGA TEXTILES LTD.,
POWER PLANT DIVISION UNIT - I,
MARIAMMAN KOVILPATTI, THENI,
THENI DISTRICT,
REP. BY ITS DIRECTOR,
L.KAMALAKKANNAN-Petitioner in WP(MD) 386/2013

Shri.Renuga Textile Ltd.,
power plant Division unit - II - Petitioner in WP (MD) 1079/2013

Vs.

1. THE COMMISSIONER OF TOWN AND
COUNTRY PLANNING AUTHORITY,
O/O. THE COMMISSIONER OF TOWN
AND COUNTRY PLANNING,
807, ANNA SALAI, CHENNAI.
2. THE DEPUTY DIRECTOR,
TOWN AND COUNTRY PLANNING AUTHORITY,
MADURAI REGION, NO.4,
HAKKIM AJMALKHAN ROAD,
CHINNA CHOKKIKULAM,
MADURAI.

.. Respondents in both W.Ps.

Prayer in W.P.(MD)No.386 of 2013:

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records relating to the Impugned Order passed by the 1st respondent in his proceedings Na.Ka.No.8890/2012/Ba 1 dated 21.11.2012 and quash the same as illegal.

Prayer in W.P.(MD)No.1079 of 2013:

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.8890/2012/Ba1 dated 21.11.2012 and the consequential order issued by the 2nd respondent in Na.Ka.No.1868/2008 Mama4 dated 06.12.2012 quash the same as illegal.



For Petitioner in
both W.Ps.

: Mr.C.Venkatesh Kumar
for M/s Ajmal Associates

For R1 in
both W.Ps.

: Mr.A.Muthukaruppan
Additional Government Pleader

For R2 in
both W.Ps.

: Mr.B.Jameel Arasu

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COMMON ORDER

Both the writ petitions have been filed challenging the order of the first respondent dated 21.11.2012 and the consequential order of the second respondent dated 06.12.2012 respectively.

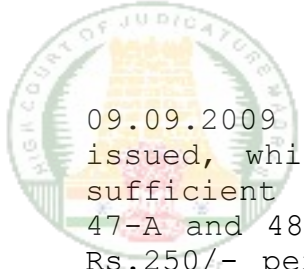
2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

3. The only grievance of the petitioner company is that treating the petitioner's building as a special building and commercial building, the authorities have fixed the rate at Rs.250/- per sq.m. as per G.O.Ms.No.22, House and Urban Development Department, dated 25.01.2008. But the property of the petitioner is in the remote village and they have not proposed to construct any multistoried building and it is only a ground floor with AC sheet roofing and it comes under the head of Industrial building and therefore, they ought to have made assessment at the rate of Rs.150/- per sq.m.

4. In fact, the Confederation of Real Estate Developers Association of India earlier raised their voice and originally it has been reduced by 50% to Rs.125/- per sq.m. But unfortunately the petitioner company has been called for to pay, by letter dated 17.11.2011, for Rs.8,30,900/-. Since the petitioner company was under financial difficulties, earlier they filed W.P.(MD)No.14761 of 2011 and by virtue of order dated 03.01.2012, this Court directed them to consider and pass orders on merits. Without appreciating the same, an order dated 21.02.2012 was passed again by the second respondent stating that G.O.Ms.No.161, House and Urban Development (UD 4 (1) Department, dated 09.09.2009 will be given effect to only for the proposal, which were received subsequent to the date of issuance of G.O.Ms.No.161, dated 09.09.2009 and the petitioner company proposal was processed earlier prior to the date of issuance of the said G.O. and hence, the amount cannot be reduced. Aggrieved against that, the petitioner preferred an appeal before the Commissioner of Town and Country Planning and the first respondent sought a report from the second respondent. But subsequently, the first respondent passed an order on 21.11.2012 fixing the rate at Rs.250/- per sq.meter along with interest at the rate of 6% p.a.

5. Since the present order is only a reiteration of earlier order, the present order is challenged on the ground that there is no specific reason and it is only a replica of the earlier order.

6. The second respondent has filed a detail counter. In the counter of the second respondent, they have stated that G.O.Ms.No.215, dated 25.11.2009 is no more in force, subsequent to the enactment of G.O.Ms.No.86, dated 28.03.2012. Further, the G.O.Ms.No.161, dated



09.09.2009 has been modified and G.O.Ms.No.86, dated 28.03.2012 was issued, which is in force and the order itself was passed after giving sufficient opportunity. It is further stated that in fact, Section 47, 47-A and 48 of the Act empowered the first respondent to fix the sum of Rs.250/- per sq.meter. Therefore, the contention that the factories come under non planning area does not help in any way for the wilful non payment of the amount fixed by the first respondent under the Tamil Nadu Town & Country Planning (Levy of Infrastructure and Amenities) Charges Rules, 2008. Financial constraint cannot be a reason for the non-payment. Rule 2(1)(g) of the said Rules, clearly provides that commercial or industrial or institutional or combination of such activities with a floor area exceeding 300 sq.meters. Therefore, the present writ petition is liable to be dismissed.

7. The only ground which has been raised by the petitioner is that the earlier G.O.Ms.No.161, dated 09.09.2009 would apply. In fact, the petitioner's association itself have given a consent to reduce 50% from Rs.500/- to Rs.250/- and further in this case, the petitioner company has been given sufficient opportunity of personal hearing and thereafter only the order has been passed pursuant to the earlier direction of this Hon'ble Court and therefore, I do not find any reason to interfere with the impugned order.

8. These writ petitions are closed accordingly. Consequently, connected Miscellaneous Petitions are also closed. No cost.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1.

THE COMMISSIONER OF TOWN AND
COUNTRY PLANNING AUTHORITY,
O/O. THE COMMISSIONER OF TOWN
AND COUNTRY PLANNING,
807, ANNA SALAI, CHENNAI.

2.

THE DEPUTY DIRECTOR,
TOWN AND COUNTRY PLANNING AUTHORITY,
MADURAI REGION,
NO.4, HAKKIM AJMALKHAN ROAD,
CHINNA CHOKKIKULAM,
MADURAI.

+1cc to M/s. Ajmal Associates, in SR. No.5924, 5923

+2cc , special government pleader SR.6006, 6005

rj2

sm:26.02.2015:3P/5C

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