IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2016

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THE HONOURABLE MR. JUSTICE M.DURAISWAMY

Writ Petition No.100 of 2016

M.Pratab Arumugam ... Petitioner

Vs.

1. The District Collector
   Namakkal District, Namakkal

2. The President
   Puduchatiram Municipality,
   Puduchatiram
   Namakkal District

3. The Block Development Officer
   Panchayat Union Office
   Pudhuchathiram - District ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified mandamus to call for the records of the 3rd respondent in his Letter No Na.Ka. No.109/2014/T1 dated 28.03.2014, quash the same and direct the respondents to permit the petitioner to pay a sum of 0.3% towards Labour Welfare fund out of the total estimated cost of construction work.

For Petitioner : Mr.R.Jagadeesan
for
M/s.K.V.Subramanian Asso.

For Respondents : Mr.M.S.Ramesh
Additional Government Pleader
for R1

Mr.R.Ravichandran,
Additional Government Pleader
For RR 2 & 3

ORDER

The petitioner has filed the above Writ Petition to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent dated 28.03.2014 and to quash the same and direct the respondents to permit the petitioner to pay a sum of Rs.0.3% towards Labour Welfare Fund out of the total estimated cost of construction work.

2. It is the case of the petitioner that he purchased a vacant land in S.No.440/1B and 442/1 situated at R.Puliyampatti Village, Kalyani Panchayat, Namakkal District, by a registered sale deed dated 11.03.2010. The petitioner submitted an application for grant of planning permission to the President of Panchayat Union for construction of eight buildings in the said vacant land. According to the petitioner, the second respondent also accorded their approval to the petitioner for construction of the residential houses in the said land. Further according to the petitioner, he also obtained planning permission from the local authority, the second respondent herein and thereafter, he constructed the residential houses as per the plan in the said land. On 20.03.2014, the petitioner requested the third respondent to inform the amount of house tax to be paid for the residential houses, which were already constructed. The third respondent in their reply dated 28.03.2014 called upon the petitioner to remit 1% of the value of the Project as Labour Welfare Fund. Further they have also called upon the petitioner to produce the planning permission with regard to the building put up in the land. According to the petitioner, as per B.P.Ms.No.151, dated 27.08.2014 issued by the Tamil Nadu Water Supply and Drainage Board, in respect of work contracts, the persons who construct houses and buildings have to pay only 0.3% of the contract value towards Labour Welfare Fund. Therefore, the petitioner gave a representation dated 26.08.2014 informing the first respondent that he is liable to pay only 0.3% of the contract value towards Labour Welfare Fund. As per the proceedings in Lr. No.41253/2014/TU3 dated 05.08.2014 issued by the Labour and Employment Department, as per G.O.Ms.No.295 dated 17.12.2013, the Government had revised the amount 0.3% to 1% to be remitted to the Labour Welfare Fund. According to the petitioner, the G.O issued by the Government is prospective and cannot be retrospective. Therefore, the claim of 1% by the third respondent is liable to be set aside.

3. The third respondent filed his counter wherein he has stated that the petitioner had constructed eight houses without getting any layout approval from DTCP. Further the third

respondent has stated that the petitioner had converted the agricultural land to house sites without getting layout approval.

4. When the matter was taken up for hearing today, the learned counsel for the petitioner produced the building approval plan, which was issued by the President, Kalyani Panchayat, Namakkal District. That apart, in the impugned letter dated 28.03.2014, the third respondent had asked the petitioner to produce the building approval and remit 1% of the contract value towards Labour Welfare Fund. The third respondent has not asked the petitioner to produce the layout approval in the impugned letter dated 28.03.2014. On a perusal of the Government Order in G.O.Ms.No.295 dated 17.12.2013, it is clear that the percentage of amount to be remitted towards contract value was revised from 0.3% to 1%. However, on perusal of the Government Order, it is clear that the revision was not made retrospective and it is only prospective. That being the case, when the petitioner had completed the construction of the building much prior to the issuance of the Government Order, the claim of 1% of the contract value towards Labour Welfare Fund cannot be accepted. In these circumstances, the impugned letter dated 28.03.2014 issued by the third respondent is liable to be set aside. Accordingly, the same is set aside.

5. The submission of the learned counsel appearing for the third respondent that liberty may be given to the third respondent to issue notice calling upon the petitioner to submit the layout approval is concerned, since it is beyond the scope of the Writ Petition and the letter issued by the third respondent dated 28.03.2014, I am not inclined to go into that aspect in this Writ Petition.

6. With the above observation, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector
Namakkal District,
Namakkal

2. The President
Puduchatiram Municipality,
Puduchatiram
Namakkal District

3. The Block Development Officer
Panchayat Union Office
Pudhuchathiram - District

+1cc to M/s.K.V.Subramanian Asso., Advocate, S.R.No.14853
+1cc to the Government Pleader, S.R.No.15031

Writ Petition No.100 of 2016

RSY(CO)
CA(16/03/2016)