

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.2190 of 2015
and M.P.Nos.1 and 2 of 2015

B.Sundar

...Petitioner

Vs.

1. The Member Secretary to Chennai,
Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2. The Executive Engineer,
Town and Country Planning,
Regional Office (South)
Chennai Corporation,
Adayar, Chennai - 600 020.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the second respondent in Va.A(The)Na.Ka.No.5476/2014, dated 09.12.2014, and to quash the same, and to direct the second respondent to grant plan approval for the petitioner's land, comprised in S.No.315, situate at Anna Nagar 1st Street, Velacherry, Chennai.

For Petitioner : Mr.R.Subramanian

For Respondent-1 : Mr.P.V.Selvakumar
Standing Counsel

For Respondent-2 : Mr.K.Raja Srinivas
Standing Counsel

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O R D E R

The prayer in the Writ Petition is for issuance of Writ of Cetiorarified Mandamus, to quash the order passed by the second respondent, dated 09.12.2014, and to direct him to grant plan approval for the petitioner's land, comprised in S.No.315, situate at Anna Nagar 1st Street, Velacherry, Chennai.

2. Heard the learned counsels appearing for the respective parties.

3. The petitioner has applied for planning permission to the respondent/Chennai Metropolitan Development Authority (CMDA), which has been processed by proceedings, dated 21.08.2014. The petitioner is now aggrieved with another issue, except, for the demand of Open Space Reservation (OSR) charges, which has been directed to be remitted a sum of Rs.9,08,000/-. The petitioner would state that, only if the plot area is more than 3,000 **Square Feet*** OSR charges would be applicable. In this regard the petitioner submitted a reply/application, enclosing the copy of the judgment passed by the Hon'ble Division Bench of this Court in re (Sumangala Steel (P) Ltd., Vs. Chennai Metropolitan Development Authority) reported in (2014) 4 L.W. 597. However, the second respondent, by impugned proceedings, while not specifically denying the application, stating that OSR charges would be applicable, if the plot coverage is 1,000 sq.mts or more, has made an erroneous observation that the aforementioned decision does not relate to the petitioner's, but to some other case. The second respondent, who passed the impugned proceedings, has failed to take note of the fact that the petitioner relied on the said decision, as in the said judgment, the Hon'ble Division Bench has clearly recorded that OSR charges are applicable only if the lands measures 3000 sq.mts or more. Therefore, the order impugned herein is set aside and the Writ Petition is allowed, and since it is not in dispute that the petitioner's plot coverage is only 2,250 **Square Feet*** the question of payment of OSR charges will not arise, and the demand of OSR charges at Rs.9,08,000/- by the earlier proceedings, dated 21.08.2014 is also set aside and the petitioner is granted time to remit the remaining amount after the first respondent processes the petitioner's planning permission.

In the result, the Writ Petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CO)

dt.03.03.2016

/true copy/

amended as per dated 30/3/2016
passed by TSSJ in WP.o.2190/201

Sd/-

Asst.Registrar (CO)

dt 11.4.2016

Sub Asst. Registrar

To

1. The Member Secretary to Chennai,
Metropolitan Development Authority,
Gandhi Irwin Road,
Egmore, Chennai - 600 008.
2. The Executive Engineer,
Town and Country Planning,
Regional Office (South)
Chennai Corporation,
Adayar, Chennai - 600 020.

To be substituted
the order copy already
despatched on 21.3.2015

- 1 cc to Mr.K. Raja Shrinivas, Advocate, **Sr. 20803***
1 cc to Mr.R. Subramanian, Advocate, **Sr. 19999***

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RSY (CO)
kk 8/3
EU 12.04.16



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