

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.24755 of 2015
and M.P.Nos.1 & 2 of 2015

M/s.M.M.Forgings Ltd.,
represented by its
Sr.Manager (Projects),
Mr.R.Karthikeyan,
95, Anna Salai,
Chennai - 600 032.

... Petitioner

Vs.

1.The State of Tamil Nadu
rep. By its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.

2.Chennai Metropolitan Development
Authority (CMDA)
rep. By its Member Secretary,
Thalamuthu Natarajan Buildings
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the records on the file of the second respondent in letter No.C3(S)/12218/2014 dated 07.07.2015 pertaining to the demand Rs.1,90,00,000/- towards caution deposit for the proposed development as contained in column (6) in para 1 of the impugned order of the second respondent with respect to the proposed constructions of Double Basement Floor + Stilt Floor (Part) + Ground Floor (Part) + 9 Floors Multi Storey Building for IT purpose at Shed No.A-24 & A-25, S.No.95 (Part) T .S.No.4/7, Block No.6, Alandur Village, Thiru Vi Ka Industrial Estate, Guindy, Chennai and quash the same and consequently direct the second respondent to grant planning permission as sought for in respect of construction to be put up in the aforesaid property without insisting upon the demand of Rs.1,90,00,000/- towards caution deposit for development as contained in Letter No.C3(S)/12218/2014 dated 07.07.2015 issued by the second respondent.

For Petitioner : Mr.S.Rajasekar

For R-1 : Mr.V.Jayaprakash Narayanan
Special Govt. Pleader

For R-2 : Mr.P.Tamilmani

O R D E R

The petitioner company applied for planning permission for the proposed construction of Double Basement Floor + Stilt Floor (Part) + Ground Floor (Part) + 9 Floors Multi Storey Building for IT purpose at Shed No.A-24 & A-25, S.No.95 (Part) T .S.No.4/7, Block No.6, Alandur Village, Thiru Vi Ka Industrial Estate, Guindy, Chennai through their application dated 01.08.2014. The second respondent having found that the application of the petitioner is in order, directed the petitioner to remit Rs.1,90,00,000/- being development charges, balance scrutiny fee, security deposit, I & A charges and caution deposit. The said order dated 07.07.2015 is being challenged by the petitioner stating that there is no necessity for the petitioner to make payment as there is a provision in the Second Master Plan - II for CMDA for accepting the Bank Guarantee towards caution deposit.

2. A counter affidavit has been filed by the 2nd respondent admitting that in the Second Master Plan for CMDA, provision for accepting Bank Guarantee towards caution deposit is made in DR.No.24 (4) (b), 7 Annexure XIII. The relevant portion of the counter affidavit is usefully extracted as follows -

Earlier, before the Second Master Plan for CMDA came into force, in several cases, Bank Guarantee have been accepted in lieu of cash towards Caution Deposit based on the orders of the Hon'ble High Court. In the Second Master Plan for CMDA, provision for accepting Bank Guarantee towards Caution Deposit is made in DR No.24 (4) (b), 7 Annexure XIII.

3. Since the respondent themselves have admitted in their counter affidavit to accept the Bank Guarantee in lieu of cash towards Caution Deposit, the impugned order is liable to be quashed and it is accordingly quashed.

4. In the result, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rgr

To

1.The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development
Authority (CMDA),
Thalamuthu Natarajan Buildings
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.S. Rajasekar, Advocate, S.R.No.39735
+1cc to Mr.P.T. Tamilmani, Advocate, S.R.No.40093
+1cc to the Government Pleader, S.R.No.39929

GJ(CO)
EU(28/07/2016)

सत्यमेव जयते

W.P. No.24755 of 2015

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