

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.347 of 2016
and
C.M.P.No.5127 of 2016

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai-600 008. ... Appellant/Respondent

Sharad Vasanji ... Respondent/Petitioner

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 07.01.2016 passed in W.P. No.36022 of 2015.

Writ Petition filed Under Article 226 of the Constitution of India, Praying to issue a Writ of Certiorarified Mandamus Calling for the records of the respondent pertaining to letter No.B2/3811/2015 dated 01.09.2015 and quash the same to the extent of the demand of Additional Charges and consequently direct the respondent to issue planning permission to the petitioner pursuant to the petitioners Application dated 10.03.2015.

For appellant : Mr.K.Rajashrinivas

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The respondent herein has filed the writ petition, questioning the legality of the order dated 1st September, 2015, wherein, additional charges were demanded and further, seeking a direction to the appellant herein to issue planning permission as per his application dated 10th March, 2015.

2 The learned Single Judge, noting the indisputable facts that the file relating to the respondent's application for planning permission was returned unapproved on 18th December, 2015 and the respondent also remitted all necessary charges and that the subsequent application will relate back to the first application, which was not rejected on merit, but simply returned, allowed the writ petition. Thus, the instant appeal by the CMDA.

3 The appellant, relying on the subsequent Government order in G.O.Ms.No.303, Housing and Urban Development Department, dated 30th December, 2013, whereunder the Government had enhanced the amount of security deposit for institutional building, special building, group development and multi-storeyed building, directed the respondent herein to deposit the additional amount.

4 Indisputably, the writ petitioner /respondent herein made an application for planning permission on 27th November, 2012. By communication dated 20th June, 2013, the respondent herein was directed to make deposit of development charges for land and building, scrutiny fee, regularisation charges for land, open space reservation charges, security deposits for the proposed development, for septic tank with up flow filter and display board, infrastructure and amenity charges and premium FSI charges, which was duly made on 17th July, 2013 as is evident from the receipts enclosed herewith. After the deposit of the said amount, G.O.Ms.No.303, dated 30th December, 2013 was issued, enhancing the aforestated charges. In the meantime, the respondent has submitted one more application on 10th March, 2015 in continuation of the earlier application.

5 The first application dated 27th November, 2012, after the receipt of the charges as per the direction of the authorities, was returned back with an observation to furnish revised plan and to hand over the link road portion. Therefore, the subsequent application dated 10th March, 2015 was in continuation of the earlier application. The learned Single Judge held that there is nothing on record to show that the amendment to the development regulations of the appellant, pursuant to the notification published in the Tamil Nadu Government Gazette dated 2nd September, 2008 is retrospective. The subsequent notification enhancing charges would not be applicable in case of the writ petitioner / respondent when the application was pending and also requisite remittance of charges was made as per the calculation and direction of the CMDA. The application was returned for submitting more details and as such, the respondent was not liable to pay the enhanced charge.

6 We have examined the matter carefully. The facts, as aforesaid, are not in dispute. The first application, dated 27th November, 2012 was not rejected, but the same was returned back to submit more information and as such, the subsequent application with details was rightly not treated as fresh application, particularly in the facts of the case, the charges as demanded by the appellant herein, by letter dated 20th June, 2013 was duly made as stated herein above.

7 For the analysis and reasons mentioned herein-above, there is no merit in the appeal. Accordingly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore,
Chennai-600 008.

+1cc to Mr. K.Rajashrinivas, Advocate sr.18256

W.A.No.347 of 2016

ad(CO)
srg(11/04/2016)

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