

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

W.P.No.18834 of 2001

D.K.Prakash Sah, GPA

... Petitioner

vs.

1. State of Tamil Nadu, represented by
Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. Chennai Metropoliltan Development Authority
by its Member Secretary,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
3. Chennai Metropolitan Water Supply and
Sewerage Board, rep. by its Chairman and
Managing Director,
1, Pumping Station Road,
Chennai - 600 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Ceritiorarified Mandamus or any other appropriate writ, order of direction in the nature of a Writ of Certiorarified Mandamus calling for the records comprised in the proceedings of the second respondent in Lr.No.B2/21304/2001, dated 26.09.2001 and quash the same in so far as it relates to payment of infrastructural improvement charges and consequently direct the grant of planning permission for construction of office building at T.S.No.4699, Block No.106 of T.Nagar in S.No.50, Unnamalai Ammal Street, T.Nagar, Chennai, without insisting on Infrastructural Improvement charges or any other levy which is unreasonable and illegal.

For Petitioner	:	Mr.Sathish Parasaran
For R1	:	Mr.V.Jayaprakash Narrayanan, Special Government Pleader.
For R2	:	Mr.N.Sampath, Standing Counsel
For R3	:	Mr.G.Janakiraman, Standing Counsel

ORDER

This writ petition has been filed to call for the records comprised in the proceedings of the second respondent in Lr.No.B2/21304/2001, dated 26.09.2001 and quash the same in so far as it relates to payment of infrastructural improvement charges and consequently, direct the grant of planning permission for construction of office building at T.S.No.4699, Block No.106 of T.Nagar in S.No.50, Unnamalai Ammal Street, T.Nagar, Chennai, without insisting on Infrastructural Improvement charges or any other levy which is unreasonable and illegal.

2. Heard Mr.Satish Parasaran, learned counsel for the petitioner, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for the first respondent, Mr.N.Sampath, learned standing counsel for the second respondent and Mr.G.Janakiraman, learned standing counsel for the third respondent.

3. The short point that arises for consideration in this writ petition is as to whether the petitioner should pay infrastructural development charges to Chennai Metropolitan Water Supply and Sewerage Board.

4. Today, when the matter was taken up for hearing, the learned counsel for the petitioner fairly submitted that the issue was decided conclusively by a Division Bench of this Court in Sumanth and Company vs. State of Tamil Nadu [(2011) 8 MLJ209] wherein, it has been held as follows:

"39. There is an element of quid pro quo involved in the subject levy though the assessment was not on the basis of arithmetical exactitude. It was only for the purpose of providing and maintaining the water and sewage facilities, the Act was amended resulting in the levy of infrastructure development charges. The levy being proportional to the service rendered, cannot be characterised as a tax in disguise. We do not therefore find any merit in the contentions raised on behalf of the petitioners.

40. In the upshot, we dismiss the writ petitions and uphold the levy of infrastructure development charges by CMWSSB. Consequently the connected Mps are closed. No costs.

In view of the above, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

elp/cad

To

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Secretariat, Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
3. The Chairman and Managing Director,
Chennai Metropolitan Water Supply and Sewerage Board,
1, Pumping Station Road,
Chennai - 600 002.

+1cc to Mr.N. Sampath, Advocate, S.R.No.72329

+1cc to Mr.Sathish Parasaran, Advocate, S.R.No.72354

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RJ(CO)
RS(03/01/2017)

सत्यमेव जयते

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