

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P.No.35564 of 2016

M/s.D.Bakthavachalu & Co., rep. by its
Partner E.Thanigaimalai .. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.

2.The Chief Executive Officer,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.

.. Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to refund the security deposit amount with 18% interest for the petitioner shop No.J-112 (A1 Type) of an extent of an 2400 sq.ft. situated in Koyambedu Wholesale Market Complex, Koyambedu pursuant to the petitioner's counsel notice dated 23.06.2016.

For Petitioner : Mr.K.R.A.Muthukirushnan

For Respondents : Mr.M.Karthikeyan

ORDER

Alleging that the amount liable to be paid as per the order of the Apex Court in S.L.P. (C). No.8202 of 2011 dated 26.11.2013 has not been paid, the present writ petition has been filed.

2.Pending the writ petition, a sum of Rs.16,72,428/- has been paid.

3.Learned counsel appearing for the petitioner would submit that there is some more amount is due, which is disputed by the learned counsel for the respondents. It appears that there is no record for making the said payment by the petitioner in favour of the respondents. Therefore, this Court is of the view that the said issue being disputed cannot be gone into and therefore, the petitioner cannot claim the said amount through this proceedings.

4.Learned counsel appearing for the respondents has made yet another submission that for the belated payment beyond the period mentioned by the Apex Court, interest is liable to be paid. Learned counsel has produced the documents to show that the amount was sent by way of a cheque as early as in the month of March, 2014, with a request to surrender the original receipts at the time of receiving the said cheque for refund. The refund proceedings which was sent by post got undelivered. Accordingly, it was affixed on the wall of the last known address of the petitioner. The petitioner has not turned up thereafter. Resultantly, the said cheque got returned back to the Accounts Division vide U.O. Note No.K2/2994/03 dated 09.12.2014 and thus remitted in the CMDA account.

5.From the above, it is seen that the non-compliance of the order passed by the Apex Court is wilful. In such view of the matter, this Court is not inclined to allow the writ petition. Accordingly, the writ petition stands dismissed. Insofar as the disputed amount as mentioned above is concerned, in the event of the petitioner producing any receipt, the same will have to be considered and appropriate steps will have to be taken by the respondents. No costs.

Sd/-
Asst.Registrar

/true copy/

सत्यमेव जयते

Sub Asst. Registrar

mmi

To

1.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.

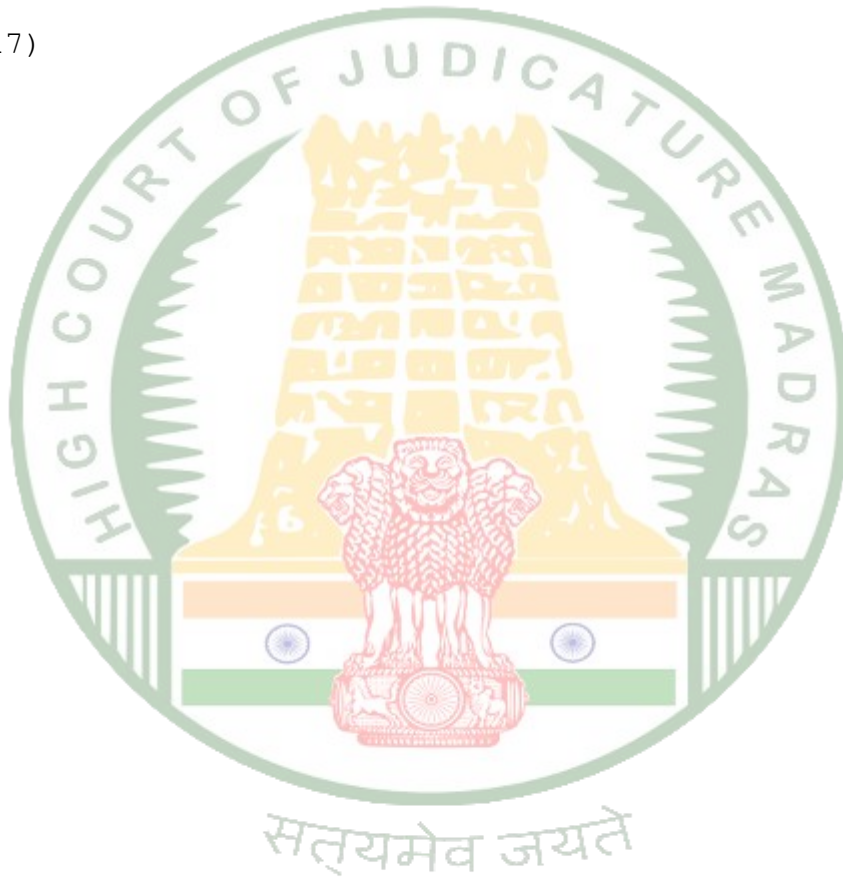
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2.The Chief Executive Officer,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 8.

+1cc to M.Karthikeyan,sr.25473

W.P.No.35564 of 2016

nr(co)
ss(3/5/2017)



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