



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **09.08.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WEB COPY

W.P(MD)No.2364 of 2014

and

M.P(MD)No.1 of 2014

Shri Renuga Soft- X Towels,
Fabric Printing Division,
A Division of Shri Renuga Textile Ltd.,
Mariamman Kovilpatti, Theni,
Theni District.
Rep by its Director L. Kamalakkannan.

.. Petitioner

Vs.

1.The Commissioner of Town and Country Planning Authority,
O/o.Commissioner of Town and Country Planning,
807, Anna Salai, Chennai.

2.The Deputy Director,
Town and Country Planning Authority,
Madurai Region,
No.4, Hakkim Ajmalkhan Road,
Chinna Chokkikulam Road,
Madurai - 20.

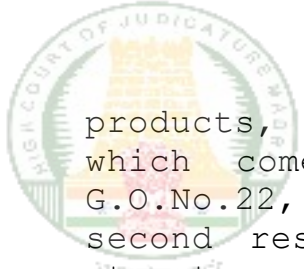
.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.ka.No.1887/2008/~~MD~~4 dated 23.11.2012 and consequently impugned orders passed by the 2nd respondent in his proceedings in Na.ka.No. 1887/2012/~~MD~~4 dated 06.12.2013 and quash the same as illegal.

For Petitioner	: Mr.C.Venkatesh Kumar for M/s.Ajmal Associates
For Respondents	: Mr.J.Gunaseelan Muthiah, Government Advocate

ORDER

This writ petition has been filed seeking to quash the impugned proceedings in Na.ka.No.1887/2008/~~MD~~4, dated 23.11.2012 and Na.ka.No. 1887/2012/~~MD~~4 dated 06.12.2013, passed by the second respondent.



products, after getting necessary approval, started construction, which comes under the head of industrial building. As per G.O.No.22, House and Urban Development, dated 25.01.2008, the second respondent levied Rs.250/- per square metre for infra-structure and amenities charges and called upon the petitioner to pay a sum of Rs.20,45,520/- (Rupees Twenty Lakhs Forty Five Thousand Five Hundred and Twenty only) on the basis that the petitioner land comes under the category of Special building. As per G.O.161, a sum of Rs.125/- per square metre alone has to be fixed and therefore, the petitioner made a representation on 16.12.2011 to the respondents. Since the same has not been considered, the petitioner filed W.P(MD)No.14762 of 2011 and this Court, by order dated 03.01.2012, directed the second respondent to consider the same on merits and in accordance with law. However, without considering the case of the petitioner, the second respondent passed an order dated 22.11.2012, directing him to pay a sum of Rs.20,45,520/- (Rupees Twenty Lakhs Forty Five Thousand Five Hundred and Twenty only) as determined in the earlier order, against which, the petitioner filed a statutory appeal before the first respondent on 28.11.2012, wherein the petitioner prayed to entertain the same without insisting for deposit of 50% of the assessed amount. However, the first respondent has passed the impugned order dated 10.05.2013, declining the said request and directed the second respondent to take action under Sections 56 and 57 of the Town and Country Planning Act, against the building of the petitioner and to file proof for payment of 50% of the infra-structure and amenities charges, for entertaining the appeal. Therefore, the petitioner is before this Court.

3.The second respondent filed a counter affidavit refuting the claim of the petitioner and prayed for the dismissal of this writ petition.

4.The learned counsel for the petitioner would submit that the condition imposed on the petitioner for entertaining the appeal is exorbitant and as per G.O.Ms.No.161 (Housing and Urban Development (UD 4(1)) Department, dated 09.09.2009, the said charges have been modified and therefore, prays for modification.

5.Whereas the learned Government Advocate appearing for the respondents would submit that the said condition is imposed, as per Section 10 of the Tamil Nadu Town and Country Planning (Levy of Infrastructure and Amenities Charges) Rules, 2008 and therefore, no interference is warranted.

6.In reply, the learned counsel appearing for the petitioner would submit that since the mandatory condition is to deposit 50% of the demanded amount for entertaining the appeal, the petitioner agrees to deposit the same, but at the same time, he seeks some protection.



7. I have carefully considered the rival submissions and perused the materials available on record.

8. Considering the submissions made on either side, this Court finds it appropriate to direct the petitioner to deposit 50% of the demanded amount to the credit of the appeal filed before the first respondent to meet the ends of justice. Accordingly, the petitioner is directed to deposit 50% of the demanded amount for infra-structure and amenities charges to the credit of the appeal filed before the first respondent within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first respondent shall entertain the appeal and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner as well as the second respondent, within a period of six weeks thereafter. Out of the amount deposited by the petitioner, 50% shall be kept in an interest bearing account. If the petitioner succeeds in the appeal, he is entitled for the remaining amount along with interest.

9. In fine, the writ petition is disposed of as above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Town and Country Planning Authority,
O/o. Commissioner of Town and Country Planning,
807, Anna Salai, Chennai.

2. The Deputy Director,
Town and Country Planning Authority,
Madurai Region,
No.4, Hakkim Ajmalkhan Road,
Chinna Chokkikulam Road, Madurai - 20.

+1cc to M/S.AJMAL ASSOCIATES, Advocate SR.No.71507

rm

MAS/MR/SAR1:01.09.2017:3P-4C

W.P (MD) No.2364 of 2014
09.08.2017