

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal No.153 of 2017

JUDGMENT: (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.40341 of 2016 dated 30.11.2016 wherein the proceedings of the 1st respondent dated 26.10.2016, calling upon the appellant to pay revised development charges as per G.O.Ms.No.223 dated 30.08.2016, was questioned as being arbitrary and illegal.

In the order under appeal the Learned Single Judge has noted that G.O.Ms.No.223 dated 30.08.2016 has not been subjected to challenge in the writ petition and, as the competent authority to grant permission is the Government, the demand made by the HMDA could not be said to be without jurisdiction. While dismissing the writ petition, the Learned Single Judge observed that the order passed by him did not preclude the appellant from approaching the Government seeking appropriate orders, including consideration of his original application, without having regard to the revision of rates as per G.O.Ms.No.223, and in accordance with the provisions of the HMDA Act. The Learned Single Judge also left it open to the appellant to avail other remedies as available in law, if so advised, if they are aggrieved by the order of the Government in G.O.Ms.No.223 dated 30.08.2016.

As is evident from a bare reading of the order of the Government, in G.O.Ms.No.223 dated 30.08.2016, the amended rates of development charges are applicable to pending cases where final orders are not issued by the Government in respect of cases pertaining to change of land use. It is not in dispute that the appellant's application, for change of land use and for conversion from conservation zone to residential zone, is still

pending, and has not resulted in a final order being passed by the Government.

As the action of the HMDA, in issuing the letter dated 26.10.2016, is in conformity with the order of the Government in G.O.Ms.No.223 dated 30.08.2016, we find no error in the order under appeal necessitating interference in an intra-court appeal under Clause 15 of the Letters Patent. Suffice it to make it clear that dismissal of this appeal shall not preclude the appellant-writ petitioner, if they so choose, from questioning the validity of G.O.Ms.No.223 dated 30.08.2016 in appropriate legal proceedings.

The Writ Appeal is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

07th February, 2017
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Date: 07.02.2017

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