

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.5571 of 2013

D.S.Kumari

...Petitioner

Vs.

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

2. Government of Tamilnadu,
Rep. by Secretary,
Housing & Urban Development Department,
Fort St. George,
Chennai - 600 009.

...Respondents

PRAYER: Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent to refund the sum of Rs.1,25,600/- they had collected from the petitioner towards regularization and scrutiny fees along with her application dated 30.12.2000.

For Petitioner : Mr.S.Sadasharam
For R1 : Mr.N.Sampath
For R2 : Mr.B.Anand

ORDER

The petitioner has come up with this writ petition for issuance of writ of mandamus to direct the first respondent to refund a sum of Rs.1,25,600/- collected by the respondents for regularisation of the building.

2.The case of the writ petitioner is that she is owner of the property situated at No.12/42, Erulappan Street, Sowcarpet, Chennai -79 and constructed building thereon, prior to 1999. She has submitted an application to the first respondent on 30.12.2000 for regularisation of the construction of the said building and also paid a sum of Rs.1,25,600/- (Rupees one lakh twenty five thousand and six hundred only).

3. The petitioner further stated that the first respondent rejected the said application on 14.01.2003 stating that the building does not qualify for regularization, but he has not returned the amount of Rs.1,25,600/-. Hence, the present writ petition.

4. In the counter affidavit filed by the first respondent, it is stated that the petitioner has obtained approval from the Corporation of Chennai for construction of building in Ground + 1st Floor, in respect of Commercial cum Residential purpose in the site, whereas, the petitioner has constructed Ground + two floors + third floor (part) commercial building and occupied. The site was inspected on 11.10.2001, and the officials found that the building has been constructed by encroaching the public road, and hence her application for regularisation was rejected.

5. The first respondent further stated that as per the order passed by a Division Bench of this Court in W.P.Nos.18898 of 2000, etc., batch of cases, the regularisation fee collected was kept aside in a separate fund. Hence, the petitioner is not entitled for refund of the amount.

6. Heard Mr.S.Sadasharam, learned counsel for the petitioner and Mr.N.Sampath, learned counsel for the 1st respondent and Mr.B.Anad learned counsel for the 2nd respondent and perused the materials available on record.

7. The case of the writ petitioner is that once the respondents have chosen not to regularise the plan, amount paid by the petitioner for such purpose should be returned to the petitioner. The Division Bench of this Court in the reference cited supra, issued direction to the respondent to keep aside the regularization fee in separate account. Further, based on the application of the petitioner, the respondents inspected the building and found it could not be regularized.

8. In the light of the above facts, the petitioner as a matter of right is not entitled to seek refund of the amount. The writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

msrm / pvs

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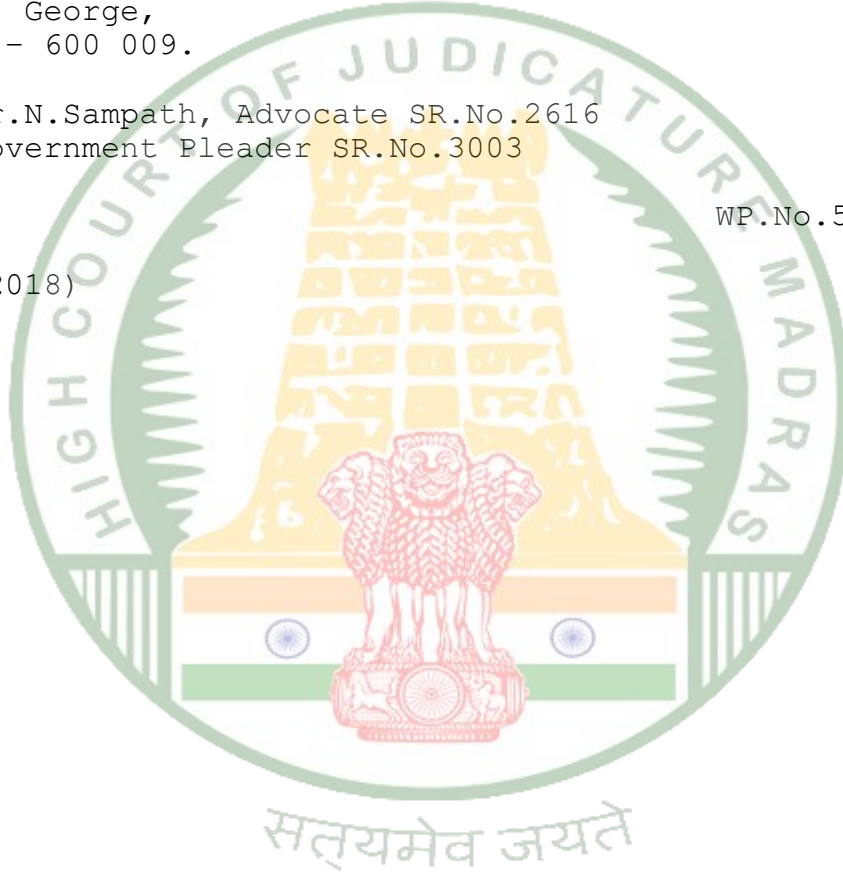
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+1cc to Mr.N.Sampath, Advocate SR.No.2616
+2cc to Government Pleader SR.No.3003

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GN(15/02/2018)



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