IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.22541 of 2009
and
M.P.Nos.1 & 2 of 2012

S. Palanichamy .. Petitioner

Vs

1. The Commissioner,
   Aavadi Municipality,
   Avadi,
   Chennai - 600054.

2. The Regional Director of Municipalities,
   Thiruvallur.

3. The Member Secretary,
   Chennai Metropolitan Development Authority,
   No.1 Gandhi Irwin Road,
   Chennai - 600008

4. The Secretary to Government
   Municipality Water Supply Department,
   Chennai .. Respondents

Prayer:- Writ Petition has been filed under Article 226 of Constitution of India, prayed to issue Writ of Certiorarified Mandamus or order or direction in the nature of writ calling for the records relating to the demand letter KA.MA.No.548/08-F2 dated 01.09.2008, on the file of the 1st respondent and quash the same as arbitrary and illegal and direct the 1st respondent to refund the excess amount of Rs. 1,36,876/- collected from the petitioner to the petitioner.

For Petitioner : Dr. N. Thiagarajan
Senior Counsel for
Mr. S. Ramesh Kumar

For Respondent : Mr. P. Srinivas
Standing Counsel for R1
: Mr.A.N.Thambidurai
Special Government Pleader
for R2 & R4
: Mr. P.S. Ganesh for R3

ORDER

The Writ Petition has been filed seeking refund of the excess amount of Rs.1,36,876/- collected from the petitioner towards the vacant land tax. The claim of the petitioner is that he had applied for planning permission before the 1st Respondent Commissioner of Avadi Municipality, and on receipt of the same, the first respondent directed the petitioner to pay a sum of Rs.1,87,599/- for the purpose of approval and the petitioner was also paid the amount. Subsequently, he came to know that the first respondent has collected charges excessively.

2. According to the petitioner, the charges have to be collected in accordance with the Proviso to Section 84 (4) (b) of the Tamil Nadu District Municipal Act 1920, and Rule 19 (9) (iii) of the Development Control Rules for Chennai Metropolitan Area 2004. But the first respondent without following the above procedure, he has collected the excess amount. Hence, the petitioner has filed present petition to refund the excess amount collected by the first respondent.

3. Per contra it is contended on behalf of the first respondent that the first respondent has collected the amount from the petitioner based on the guide line value as on that date. The learned counsel further stated that the petitioner is now claiming refund based on the amended provision of Section 84 (b) of the Tamil Nadu Municipality Act, but that proviso had not come into force at all. When the amendment made to the Municipality Act had not come into effect, the said provision cannot be invoked, and the petitioner is not entitled to refund of the amount. Hence, the petitioner is not entitled to the relief sought for I have considered the rival submissions.

4. The petitioner claiming refund of vacant land Tax alleged have been paid as per the proviso to Section 84 (4) (b) of the Tamil Nadu District Municipalities Act. But the above proviso sought to be introduced by way of an amendment to the Act has not come into force, in that circumstances, the petitioner cannot claim refund based on that.

5. In view of the above, I am of the view that there is no merit in the Writ Petition and accordingly, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dh

To

1. The Commissioner,
   Aavadi Municipality,
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   Chennai - 600054.

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3. The Member Secretary,
   Chennai Metropolitan Development Authority,
   No.1 Gandhi Irwin Road,
   Chennai - 600008

4. The Secretary to Government
   Municipality Water Supply Department,
   Chennai.

+1cc to the Government Pleader Sr.57243
+1cc to Mr.S.Ramesh kumar, Advocate Sr.56654
+1cc to Mr.P.Srinivas, Advocate Sr.57182

W.P.No.22541 of 2009

kk[co]
srg 14/09/2018