

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.8686 of 2008

ORDER:

Petitioner—Company seeks Writ of Mandamus declaring the action of the respondent in calling upon it to make payment of the development charges as per G.O.Ms.No.439, dated 13.06.2007 without considering its application dated 23.04.2007, seeking permission for development of land (Group Housing Scheme—Mega township) on the basis of development charges paid by its on 06.06.2007 as arbitrary and illegal and consequently direct the respondent to consider its application and grant permission for the said Mega Housing Project without insisting payment of the enhanced development charges as per G.O.Ms.No.439 dated 16.06.2007.

2a) The petitioner is a Public Limited Company engaged in Real Estate Development of various types such as Group Housing Schedule, Township. The respondent is a statutory authority constituted under the provisions of A.P. Urban Area Development Act, 1975 for the specified urban area which covers Mankal Village, Maheswaram Mandal, Ranga Reddy District.

b) The petitioner submitted application dated 23.04.2007 for sanction of permission for development of land for Group Housing in respect of land in Sy.Nos.445/P, 444, 448/P, 449/P, 450, 451/P, 453, 452/P, 454/P, 457/P, 484/P, 485/P, 487/P, 488/P of Mankal Village, Maheswaram Mandal, Rana Reddy District in an extent of Ac.70.75 gts. for residential

purposes. In reply to the same, the respondent vide its letter dated 07.07.2007 called upon the petitioner to comply with the requirements enumerated in the above said letter. Thereafter, the petitioner vide its letter dated 27.07.2007 had complied with the requirements and paid development charges as estimated and determined by the respondent amounting to Rs.2,56,03,700/- vide Challan No.3821/2007-08 dated 06.06.2007. Despite compliance of all the requirements including payment of building permission fee as per G.O.Ms.No.51, the respondent has not processed its application apparently on the ground that petitioner is obligated to pay enhanced development charges as notified in G.O.Ms.No.439 Municipal Administration, dated 13.06.2007. The development charges as per the G.O.Ms.NO.439 would be to a tune of Rs.3.67 crores. The respondent vide its letter dated 25.03.2008 has called upon the petitioner to make payment as per G.O.Ms.No.439 dated 13.06.2007. The petitioner submits that the demand raised by the responded in its letter dated 25.03.2008 is untenable since development charges prescribed by G.O.Ms.No.439 dated 16.06.2007 would be applicable to such application which is submitted subsequent to the enforcement of G.O.Ms.No.439 w.e.f.13.06.2007. However, the petitioner had already submitted its applications on 23.04.2007 i.e. long before the issue of G.O.Ms.No.439 dated 13.06.2007. Further, it paid the development charges as applicable under G.O.Ms.No.51 amounting to Rs.2,56,03,770/- on 06.06.2007. Therefore, the application of petitioner should not be dealt with by the respondent under G.O.Ms.No.439 dated 13.06.2007 and it should be considered as per the

G.O. in existence before issue of G.O.Ms.No.439 Municipal Administration dated 13.06.2007.

c) It is further submitted by the petitioner that it is not questioning the validity of enhanced development charges as enunciated by G.O.Ms.No.439 Municipal Administration dated 13.06.2007, it is only submitted GOs. are prospective in operation and hence they do not cover the applications that were already under consideration before the respondent authorities. Hence, the action of the respondent in calling the petitioner to comply with the payment of development charged in terms of G.O.Ms.No.439, dated 13.06.2007 is arbitrary and illegal.

Hence, the Writ Petition.

3) Heard arguments of Sri Vedula Venkataramana, learned senior counsel for petitioner. None appeared for respondent.

4) The main plank of argument of learned senior counsel is that petitioner—Company submitted application dated 23.04.2007 to the respondent authority for sanction of permission for the development of land situated in Mankal Village, Maheswaram Mandal, Ranga Reddy District for Group Housing purpose and paid building permission fee of Rs.2,56,03,700/- as per G.O.Ms.No.51. Thereafter, the respondent vide letter dated 08.07.2007 instructed the petitioner to pay development charges as per G.O.Ms.No.439 Municipal Administration dated 13.06.2007. The petitioner replied stating that in the first week of June, 2007 while their Group Housing application was under process and

tentative estimates for fees was also evaluated and on the endorsement of the then Vice Chairman, petitioner already paid Rs.2,56,03,770/- and therefore their application may be considered as per the Rules applicable before issue of G.O.Ms.No.439, dated 13.06.2007 as per which, total development charges payable is Rs.6,23,90,758/- and after deducting the amount paid by the petitioner i.e. Rs.2,56,03,770/- the balance amount Rs.3,67,86,988/- was demanded to be paid. Learned counsel would vehemently argue since the submission of application of the petitioner and payment of development charges were all made as per G.O.Ms.No.51 which was vogue by then and much prior to the advent of G.O.Ms.No.439, it is not legally justifiable on the part of respondent to demand payment of development charges as per G.O.Ms.No.439 dated 13.06.2007. He would submit that G.O.Ms.No.439 has no relevancy to the present case as it has no retrospective operation. He thus prayed to allow the writ petition.

5) There is no representation on behalf of respondent. Therefore, this Court has no advantage of knowing the stand of the respondent in respect of the claim of the petitioner about its making application dated 23.04.2007 and making payment of Rs.2,56,03,770/- more particularly, with regard to the applicability of G.O.Ms.No.439 dated 13.06.2007 which on a plain reading connotes prospective in operation.

6) Therefore, this Writ Petition is disposed of with a direction to the petitioner to make a fresh application to the respondent within four (4) weeks from the date of receipt of a copy of this order in which event, the

respondent shall consider the same and either issue permission for development of the land (Group Housing Scheme—Mega Township) on the basis of development charges said to be paid by the petitioner on 06.06.2007 or if it is the case of the respondent that development charges need to be paid by the petitioner as per G.O.Ms.No.439 Municipal Administration dated 13.06.2007, then pass a cogent order giving reasons as to how the said G.O.Ms.No.439 is applicable to the petitioner's case within four weeks (4) from the date of receipt of application of the petitioner. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

Date: 10.12.2018
Murthy

U.DURGA PRASAD RAO, J

