



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5484 of 2009

Mr.Rajendran Chingaravelu

... Petitioner

Vs.

1.State of Tamil Nadu,
represented by Secretary to the Government,
Municipal Administration and Water Supply,
Secretariat, Fort.St.George,
Chennai - 600 009.

2.The Member Secretary,
CMDA, 1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3.The Commissioner,
Poonamallee Panchayat Union,
Poonamallee, Chennai - 600 056.

4.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to letter No.A3/1849/2008 dated 18.08.2008 of the third respondent and letter Na.Ka.No.1849/2008/A3 dated 30.09.2008 of the third respondent and quash the same in so far as the quantum of payment of Regularization Charges and OSR Charges is concerned and direct the third respondent to confirm the planning permission by levying the said charges at Rs.2,960/- and Rs.7,158/- respectively.

For Petitioners : Mr.P.V.S.Giridhar

For Respondents : Mrs.K.Bhuvaneswari for R1 and R4
Additional Government Pleader

Mr.P.Tamilmani for R2



O R D E R

The petitioner has filed this petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to letter No.A3/1849/2008 dated 18.08.2008 of the third respondent and letter Na.Ka.No.1849/2008/A3 dated 30.09.2008 of the third respondent and to quash the same in so far as the quantum of payment of Regularization Charges and OSR Charges is concerned and to direct the third respondent to confirm the planning permission by levying the said charges at Rs.2,960/- and Rs.7,158/- respectively.

2.The petitioner purchased un-approved layout. Thereafter, the State Government in order to regularise the un-approved plots issued G.O.Ms.No.11, dated 19.01.2006 and fixed norms for regularisation of the un-approved plots. In order to avail the benefit of the Government

Order, the petitioner filed application on 23.05.2008. Thereafter, the third respondent issued the impugned letters dated 18.08.2008 and 30.09.2008. Aggrieved by the same, the petitioner has preferred this writ petition.

3.The learned counsel for the petitioner would submit that in respect of regularisation of plots, the Government has framed guidelines in the Government Order itself. According to the Government Order, 10% of the extent of the layout should be reserved and handed over to the local body towards Open Space Reserve (OSR). If the full OSR extent is not available, OSR deficit charges should be paid at current guideline rate (GLR). Subsequently, based on the resolutions passed by the Coimbatore and Salem Municipal Corporation and the report of the Commissioner of Municipal Administration, some of the conditions for regularisation of layout were relaxed by the Government and OSR deficit charges were reduced to 50% of the cost of the deficit land extent. Hence, the petitioner has to pay only a meagre amount, however, the respondent by the impugned letters directed to pay an exorbitant amount. Accordingly, he prayed for allowing the writ petition.

4.The learned counsels appearing for the respondents would submit that as per the Government Order only, the competent Authority calculated the regularisation fees and if the petitioner wants regularisation of his layout, he has to pay the fees arrived at by the competent Authority.

5.Heard both sides.



6.The un-disputed facts are that the petitioner purchased the un-approved layout and for the purpose of regularisation of his plot, the petitioner submitted an application on 23.05.2008. The contention of the petitioner is that the calculation mentioned in the guidelines of the Government Order has not been properly followed in the calculation mentioned in the impugned letters.

7.On a perusal of G.O.Ms.No.11, dated 19.01.2006 reveals that regularisation fee was levied at the rate of Rs.20/- per square metre in Corporations, Rs.10/- per square metre in Municipalities and Rs.3/- per square metre in (erstwhile) Town Panchayats. The said Government Order imposed a condition that 10% of the layout area should be reserved as Open Space Reserve. This shall be proportionately divided

among the total number of individual plots, based on the extent of plots. The plot owner shall hand over the proportionate OSR land to the Urban Local Body. In case of deficit in OSR area, the plot owner shall pay 50% of the cost of the deficient extent.

8.In the present case, the petitioner has paid 50% of the cost. However, he did not disclose the total extent of the layout area. Hence, this Court is unable to calculate the Open Space Reserve area of the entire layout. In view of the above, I do not find any error in the impugned letters passed by the third respondent.

9.Hence, the writ petition is dismissed. The petitioner is directed to pay the amount demanded for regularisation, less the amount already paid, within a period of four weeks from the date of receipt of a copy of this order. The Authority may pass appropriate orders in respect of regularisation of the petitioner's plot.

10.It is submitted by the learned counsel for the petitioner that this Court by way of interim protection has directed the petitioner to produce Bank Guarantee and accordingly, the petitioner has produced eight Bank Guarantees. Hence, after payment of the entire amount by the petitioner, the respondents may be directed to hand over the Bank Guarantees to the petitioner.

11.In view of the above, the respondents are directed to



hand over all the Bank Guarantees (eight in nos.) furnished by the petitioner, to the petitioner, on receipt of the entire amount from the petitioner.

12.The writ petition is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to the Government,
Municipal Administration and Water Supply,
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2.The Member Secretary,
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3.The Commissioner,
Poonamallee Panchayat Union,
Poonamallee, Chennai - 600 056.

4.The Inspector General of Registration,
No.100, Santhome High Road,
Chennai 600 028.

+1 cc to Mr.P.Tamilmani, Advocate, Sr.No. 51015

+1 cc to M/s.Gridhar & Sai Associates, Advocate, Sr.No. 50079

+1 cc to The Government Pleader, Sr.No. 50623

W.P.No.5484 of 2009

LN(CO)

CSL/31.07.2019