

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.28100 of 2010
and MP.Nos.1 and 2 of 2010

G.Pradeep Kumar

...Petitioner

Versus

1. The Assistant Director,
Town and Country Planning,
Chengalpet Circle,
Chengalpet,
Kancheepuram District.

2. The Deputy Director,
Urban Development,
Varadharajar Street,
Vadhachalam Nagar,
Chengalpet,
Kancheepuram District.

...Respondents

PRAYER:

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records pertaining to notice of the 1st Respondent in Na.Ka.No.3143/2007 Che Ma 6 dated 02.11.2010 and quash the same.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.J.Ramesh for RR1 & R2
Additional Government Pleader

ORDER

This writ petition has been filed seeking to quash the notice of the 1st Respondent in Na.Ka.No.3143/2007 Che Ma 6 dated 02.11.2010.

2.The petitioner is a business man involved in export of food products running the business in the name and style at M/s.Shunsen cold storage. The petitioner owns a property in Survey No.540/2B Kodavalli Village, Kannigapuram Panchayat,

Tiruvallur District to an extent of 2.5 acres. In the said property, the petitioner proposed to construct a cold storage building with 130 Horse Power capacity in order to preserve the perishable food products intact. Thereafter, the petitioner applied for approval of the proposed construction to an extent of 6900 Sq. meter in the above said property together with plan and relevant papers. While so, the 2nd respondent in his proceedings dated 10.10.2007 in Na.Ka.No.3143 of 2007 Che Ma 6, accorded planning permission subject to condition that Directorate of Town and Country Planning/Local Planning Authority/Local body is at liberty to impose and collect infrastructure and basic amenities charges ordered in G.O.Ms.No.191 H and UD Department dated 01.06.2007 depending on the outcome of the W.P.No.20587 of 2007 before this Court, Chennai challenging the above said G.O., this Court disposed of a batch of writ petitions in favour of the Government, failure to remit the infrastructure and basic amenities charges within 15 days from the date of receipt of demand will render the planning permission/approval liable for cancellation. As per the said G.O.Ms.191 Housing and Urban Department dated 01.06.2007, the levy of infrastructure and basic amenities charges are Rs.500/- per square meter towards commercial and IT buildings, Rs.1000/- per square meter for multistoreyed building, Rs.200/- per square meter for institutions and Rs.300/- per square meter for industrial use. The petitioner has completed the construction and was running the business. This being so, the 1st respondent in his proceedings Na.Ka.No.3143 / 2007 Che Ma 6 dated 02.11.2010 called upon the petitioner to pay a sum of Rs.34,50,000/- towards infrastructure and amenity charges at Rs.500/- per square feet for 6900 square meter. Aggrieved by such proceedings, the petitioner has filed the present petition with the aforesaid prayer.

3. Heard Mr.C.K.M.Appaji, learned counsel for the petitioner and Mr.J.Ramesh, learned Additional Government Pleader for respondents 1 and 2.

4. The learned Additional Government Pleader for respondents 1 and 2 submitted that the petitioner has constructed 6900 square meter in his property. According to the Tamil Nadu Town and Country Planning (Levy of Infrastructure & Amenities Charges) Rules 2008, in G.O.Ms.No.22 H & UD, dated 25.01.2008, if the industrial building floor area is exceeding 300 square meter (total FSI built up area is 6900 square meter), the petitioner's industry comes under the category of "Special Building" based on the above G.O. Hence, the demand of Rs.34,50,000/- towards collection of Infrastructure and Amenities charges at the rate of Rs.500/- per square meter for 6,900/- square meter is legal and reasonable.

5.Mr.C.K.M.Appaji, acceded to the submission made by the learned Additional Government Pleader for respondents 1 and 2 and submitted that this court may permit the petitioner to pay only Rs.34,50,000/- without any interest and penal charges.

6.In view of the above submission made on either side and also that the petitioner has come forward to pay Rs.34,50,000/- towards infrastructure and amenities charges to the first respondent, this Court without going into the merits of the case, this court permit the petitioner to pay a sum of Rs.34,50,000/- to the first respondent within a period of eight weeks from the date of receipt of copy of this order. On such payment, the first respondent is directed to accept the same without imposing any interest or penal charges to the petitioner.

7.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Director,
Town and Country Planning,
Chengalpet Circle,
Chengalpet,
Kancheepuram District.
2. The Deputy Director,
Urban Development, Varadharajar Street,
Vadhachalam Nagar, Chengalpet,
Kancheepuram District.

+1cc to the Government Pleader, S.R.No. 67109

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MG(CO)
CS/25/09/2019