

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.Nos.320, 1400, 2703, 4734, 5463, 7770,
8304, 9715, 10278, 11072, 15783, 16300, 16347,
16887, 16888 & 18003 of 2018 &
Connected Miscellaneous Petitions

1.K.RAJAH VENKATRAMAN ... PETITIONER in WP.No.320 of 2018

2.M/S.POOJAA FOUNDATION PVT LTD
REP BY ITS DIRECTOR B.BUDHMAL BOHRA
CHENNAI-84 ... PETITIONER in WP No.1400 of 2018

3.M/S.DECCAN ESTATES LTD.
REP.BY ITS MANAGING DIRECTOR
S.NIRMAL ANRAJ GANDHIYA
S/O.MR.ANRAJ GADHIYA
T.NAGAR CHENNAI-17.
... PETITIONER in WP No.2703 of 2018

4.M/S.DAWNING DEVELOPERS LLP
REP BY ITS AUTHORIZED SIGNATORY
C.K.VENKATESH, THIRUVANMIYUR
CHENNAI-41
... PETITIONER in WP No.4734 of 2018

5.M/S.ANJALI INFRA DEVELOPERS LLP
REP.BY ITS AUTHORISED SIGNATORY
MR.PHILIP ZACHARIAH
ANNA SALAI, CHENNAI-600 002.
... PETITIONER in WP No.5463 of 2018

6. i. K.V.P.SADAYANDI
S/O.SRIPOTHY MOOPANAR

- ii. S.RAMESH
- iii.S.POTHIRAJ
- iv. S.MURUGESH
- v. S.MAHESH
- vi. S.ASHOK

2 to 6 S/o.K.V.P.Sadayandi Moopanar

2 TO 6 ARE REPRESENTED BY THEIR POWER AGENT
R.VARUN, VIRUDHUNAGAR DIST 626 125

... PETITIONER in WP.No.7770 of 2018

- 7 AKR TRUST REP BY ITS POWER OF ATTORNEY
SRI DHANVANTRI TRUST
REP BY ITS MANAGING TRUSTEE
KUMARA VIJAYAM FLAT
MYLAPORE CHENNAI-04
... PETITIONER in WP No.8304 of 2018
- 8 MR.CHENNARAM SENI
S/O. RIDDHARAM JI NO.98/99 HABIBULLAH ROAD
T.NAGAR CHENNAI-17.
... PETITIONER in WP No.9715 of 2018
- 9 M/S.DUAL STRUCTURALS AND INDUSTRIES PVT.LTD.
REP.BY ITS DIRECTOR,
KOTTIVAKKAM CHENNAI-600 041.
- 10 M/S.NCC URBAN INFRASTRUCTURE LTD.
REP.BY ITS MANAGER (AUTHORISED SIGNATORY)
KEELKATTALAI, CHENNAI-600 117.
... PETITIONERS in WP No.10278 of 2018
11. T.REVATHI AMMAL ... PETITIONER in WP No.11072 of 2018
12. R.VARUN ... PETITIONER in WP No.15783 of 2018
13. M/S. DRA AADITHYA CHENNAI
HOMES LLP REP. BY ITS PARTNER
RANJEETH RATHOD, CHENNAI - 600036
... PETITIONER in WP No.16300 of 2018

14. MR.M.GNANAPRAKASAM ... PETITIONER in WP No.16347 of 2018
15. M/S.AKSHAYA PRIVATE LIMITED
REP. BY ITS AUTHORISED SIGNATORY MR.J.RAVI
KANDANCHAVADI, CHENNAI-600 096.
... PETITIONER in WP No.16887 & 16888 of 2018
16. M/S.ISHA HOMES INDIA PVT.LTD.
REP.BY AUTHORISED SIGNATORY
MR.N.ANBUMANI
... PETITIONER in WP No.18003 of 2018

Vs.

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai - 600 009.
2. The Chennai Metropolitan Development Authority,
Rep. by its Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.
- Respondents in all WPs

1. THE GOVERNMENT OF TAMIL NADU
REP. BY SECRETARY TO GOVERNMENT
HOUSING AND URBAN DEVELOPMENT DEPARTMENT
FORT ST. GEORGE SECRETARIAT CHENNAI-600 009.
- 2 THE REGIONAL DEPUTY DIRECTOR
OF TOWN AND COUNTRY PLANNING
CHENGALPET REGION 124
GST ROAD CHENGALPET.

... RESPONDENTS in WP No.16887 & 16888 of 2018

Prayer:-

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the respondent herein, viz., the Government Order in G.O.Ms.No.135, Housing and Urban Development Department (SC1-2) Department dated 21.07.2017 and the proceedings of the second respondent herein bearing No.B1/18782/2016 dated 20.12.2017 and quash the same insofar as it relates to the demand for Shelter

Fee of a sum of Rs.16,64,470/- paid towards Shelter Fee for the proposed construction of Ground Floor + Three Floors in two blocks consists of Kalyanamandam, indoor games and gymnasium in Survey Nos.279/1A & 279/1B1 of Sholinganallur Village at Kalaingar Karunanidhi Salai, Sholinganallur. (in WP.320/18)

WP No.1400 of 2018:-

Writ of Certiorarified Mandamus quashing the impugned Government Order in G.O.Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.07.2017 and the consequential demand of shelter fee made under the impugned proceedings of the 2nd respondent herein bearing letter No.C3(N)/ 19019/ 2016 dated 15.09.2017 & 26.12.2017 and direct the 2nd respondent to process the Planning Permission Application of the Petitioner without insisting for payment of the shelter fee.

WP No.2703 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction Call for the records of the 1st respondent in G.O.Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.07.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter No.B1/15036/2017 dated 31.01.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant building plan approval to the petitioner for construction of special residential buildings/ flats at survey Nos.320/2B1B, 2B1C, 2B1D, 2B1E, 2B1F, 2B1G, 2B1H, 2B1I, 2B3A, 321/1A1A2, 1A1A3, 1A1A4, 1A1A5, 1A1A6, 1A1A7 of Sholinganallur Village, Chennai without insisting for payment of shelter fee

WP No.4734 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction in the nature of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st Respondent herein, viz, the Government Order in G.O.Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the proceedings of the 2nd Respondent herein bearing Letter No.C3(N)7611/ 2017 dated 28.2.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd Respondent herein to grant Building Plan approval to the Petitioner for development of Commercial cum residential building in its land comprised in Old Survey Nos.122/2A, 2B, 123/1B, 2B, 1A2, 2A2, 1C1, (Part), 2C1, 1C2, 2C2, 2C3 (Part), 2D (Part), 123/1 (part), 1A1, 2A1, 135/2A, 2B & 1C in T.S. No.9/6, 9/7, 11/1, 11/4, 11/5, 11/6, 11/7, 11/9, 11/10, 12/5 & 12/6 in Block No.22 of Ashipattu Village, Ambattur Taluk, Thiruvellore District without insisting for payment of Shelter fee.

WP No.5463 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction call for the records of the 1st respondent in G.O(Ms) No.135 Housing and Urban Development (SC1-2) Department dated 21.07.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter No.C3(S) / 5931/2017 dated 21.02.2018 and quash the same in so far as it relates to the demand for Shelter Fee and interest as mentioned in Para 2(i) to (vi) and consequently direct the 2nd respondent herein to grant building Plan approval to the petitioner for construction of Multi-storeyed Commercial Group Development consisting of 2 Blocks with Combined Basement Floor with Block A : Ground Floor + 2 floors - shops and Block B Stilt Floor part/ Ground Floor part + 1st Floor (parking) + 2nd to 10th Floor- Office use at Old Door No.51, New Door No.22, Rajiv Gandhi Salai (OMR), Sholinganallur, Chennai-600 119 bearing S.No.480/3B1A and 3B1B of Sholinganallur Village without insisting for payment of Shelter fee and interest on the demands.

WP No.7770 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction in the nature of Writ calling for the records relating to the proceeding of the 1st respondent, namely the Government Order in G.O. Ms. No. 135 (Housing and Urban Development SC1-2 Department) dated 21.07.2017 and the consequent proceedings of the 2nd respondent vide Letter No. C3 (s)/17017/2017 dated 21.02.2018 and quash the same in so far as it relates to the demand for shelter fee and direct the 2nd respondent to process and grant building with 4 basement floors (2nd to 4th Basement floor for parking and 1st Basement floor for hyper market), Plus Ground Floor plus 6 floors commercial building at property bearing Old Door No.393, New No.39/1, Velachery Tambaram Road, Velachery, Chennai, Comprised in S.Nos. 332/1B, 2B, 2C, T.S.No.14/1, 15/2, Block No.192 of Velachery Village, Chennai, without insisting for payment of Shelter Fee.

सत्यमेव जयते

WP.No.8304 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, order or direction call for the records of the 1st Respondent in G.O.Ms. NO.135 Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter no.C3/ (N)/ 10532/ 2016 dated 01.03.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd Respondent herein to grant Building plan approval to the Petitioner for construction of Group Development of Multi Storied buildings, at Pillaiyar Koil Street, Thirumangalam, Chennai-40 comprised in Old S.No.230/7A Pt. T.S.No.8 Block No.27 of Koyambedu Village,

in all measuring 5,268.93 square meters, without insisting for payment of Shelter Fee.

WP No.9715 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction Call for the records of the 1st respondent in G.O.Ms.No.135, Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter No. B1/7138/2017 dated 19.03.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant Building Plan approval to the petitioner for construction of special residential buildings/flats at survey Nos.168/3, (Part) 4 (Part), 169/1 (Part), 2A, 2B, 2C (Part), 170/1, 2A, 2B, 172/20 (Part) 21 (Part), 28 (Part), 29, 42 (Part), 43 (Part), 48 to 52 (Part) and S.No. 171/2 and 3 of Pammal Village, without insisting for payment of Shelter Fee.

WP.No.10278 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction, in the nature of Writ Calling for the records relating to the proceeding of the 1st respondent, namely, the Government Order in G.O.Ms.No.135 (Housing and Urban Development SC1-2 Department) dated 21.07.2017 and the consequent proceedings of the 2nd respondent vide Letter No.C4 (S)/ 16907/2017 dated 12.04.2018 and quash the same in so far as it relates to the demand for \"Shelter Fee\" and direct the 2nd respondent to process and grant building plan approval to the petitioner for development and construction of Ground Floor plus Two Floors (CESE) Higher Secondary School Building at Indira Priyadarshini Main Road, Perumbakkam, Chennai, in a portion of 29 1/2 Grounds, comprised in Old Survey Numbers 463/1, 2 and 464/1, 2 as per Patta New Survey Numbers 463/1A1B and 464/15, at Perumbakkam Village, Sholinganallur Taluk, Kancheepuram District, within the limits of St.Thomas Panchayat Union, without insisting for payment of Shelter Fee.

WP.No.11072 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction, call for the records of the 1st Respondent in G.O.Ms. No.135 Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the consequential proceedings of the 2nd Respondent herein bearing Letter No.B3/1068/ 2018 dated 24.04.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd Respondent herein to grant Building Plan approval to the petitioner for Construction of commercial buildings (Shops) in Door NO.811B, GNT Road, Redhills, Chennai in Survey Nos.132/1B5, 1B6, 1B2A1, 1B3A1, 1B4A1 and 132/ 1B7A1 of Padiyanallur Village, without insisting for payment of Shelter Fee.

WP.No.15783 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction, call for the records of the 1st respondent in G.O.Ms. NO.135 Housing and Urban development (SC1-2) Department dated 21.7.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter No.C3 (S)/ 17821/ 2015 Dated 18.06.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant Building Plan approval to the petitioner for construction of commercial buildings (shop cum office) in Plot No.46, G.S.T. Road, and Rengasamy Street, Old S.No.407 (part) New S.No.407/27A-1, T.S. No.4/1A2, 4/1B, Block No.8 of Zamin Pallavaram Village, Chrompet, Chennai without insisting for payment of Shelter Fee.

WP No.16300 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction, call for the records of the 1st respondent in G.O Ms No. 135 Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter No. C3(S)/ 16819/2017 dated 20.06.2018 and quash the same impugned order dated 21.07.2017 of the 1st respondent and the consequential proceedings dated 20.06.2018 of the 2nd respondent in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant Building Plan approval to the petitioner for construction of Multistoreyed Building Group Development: Combined Basement Floor + Combined Stilt Floor with Block A: 1st Floor to 12th Floors (58 dwelling units), Block B:1st Floor to 12th Floors (48 dwelling units) Residential building - Totally 106 Dwelling units at IRR and ICC Composite Corridor Road, Vanuvampet, Admabmakkam, Chennai-600 088 bearing T.S.No.30/1-1, 30/1-2, 30/1-3, 30/1-4, 30/2-2A, Old.S.No.265/4, Block No.17, Ward No.F of Alandur Village (formerly Adambakkam Municipality) without insisting for payment of Shelter Fee.

WP No.16347 of 2018:-

Writ of Certiorarified Mandamus, Quashing the impugned Government Order in G.O. Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.07.2017 and the consequential demand of shelter fee made under the impugned proceedings of the 2nd respondent herein bearing letter No.BCI/1515/2016 dated 05.01.2018 and direct the 2nd respondent to process the Planning Permission Application of the petitioner without insisting for payment of the shelter fee.

WP No.16887 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction in the nature of Writ of Certiorarified Mandamus Calling for the records relating to the proceedings of

the 1st respondent herein, viz. the Government Order in G.O. Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the proceedings of the 2nd respondent herein bearing Letter No.2048/17/SM3 dated 19.06.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant building plan approval to the petitioner for development of industrial building in its land comprised in Survey No.222/1B, 222/2, 235/6B and 235/7 of Sembakkam Village, Thiruporur Taluk, Kancheepuram District, without insisting for payment of Shelter Fee.

WP.No.16888 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction in the nature of Writ of Certiorarified Mandamus Calling for the records relating to the proceedings of the 1st respondent herein, viz. the Government Order in G.O. Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.7.2017 and the proceedings of the 2nd respondent herein bearing Letter No.2320/17/SM3 dated 18.06.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant building plan approval to the petitioner for development of industrial building in its land comprised in Survey No.235/1B, 235/2, 235/6B and 235/7 of Sembakkam Village, Thiruporur Taluk, Kancheepuram District, without insisting for payment of Shelter Fee.

WP No.18003 of 2018:-

Writ of Certiorarified Mandamus, or any other appropriate Writ, Order or Direction Call for the records of the 1st respondent in G.O.Ms.No.135 Housing and Urban Development(SC1-2) Department dated 21.7.2017 and the consequential proceedings of the 2nd respondent herein bearing Letter No. B2/ 3791/ 2018 dated 06.07.2018 and quash the same in so far as it relates to the demand for Shelter Fee and direct the 2nd respondent herein to grant Building Plan approval to the Petitioner for construction of residential building in S.No. 307/ 2A1, 2B, 3A, 3B and 308(as per patta) of Nedungundram Village within Kattangulathur Panchayat Union without insisting for payment of Shelter Fee.

For Petitioner : Mr.V.Suthakar (in WP.320 of 2018)

Mr.G.KalyanJhabakh
for M/s.Surana & Surana

.. in Wps.1400, 16347 of 2018

Mr.R.Mohan : in WPs.2703, 2708, 9715, 11072,
15783, 18003 of 2018

Mr.S.Kalyanaraman
for M/s.Aiyar & Dolia : in WPs.5463 of 2018

Mrs.AL.Ganthimathi : in Wps.4734, 16887, 16888 of 2018

Mr.A.Thayaparan : in WP.7770, 10278 of 2018

Mr.Kuberan,
for M/s.Rank Associates : in WP.8304 of 2018

Mr.L.Murali Krishnan : in WP.16300 of 2018

For Respondents : Mr.V.Shanmuga Sundar
Special Government Pleader for R1

Mr.P.Tamil Mani
Standing Counsel (CMDA) for R2

COMMON ORDER

The learned Standing Counsel appearing for the CMDA would submit that the Government vide Notification on 31.01.2018, has amended the Tamil Nadu Town and Country Planning Act, 1971, (Act 14 of 2018) and therefore, present Writ Petitions have become infructuous. The copy of the Gazette Notification is placed before this Court. In such view of the matter, all the Writ Petitions are dismissed as infructuous with liberty to the petitioners to challenge the amended provisions of the Act, if so advised. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Secretariat,
Chennai - 600 009.

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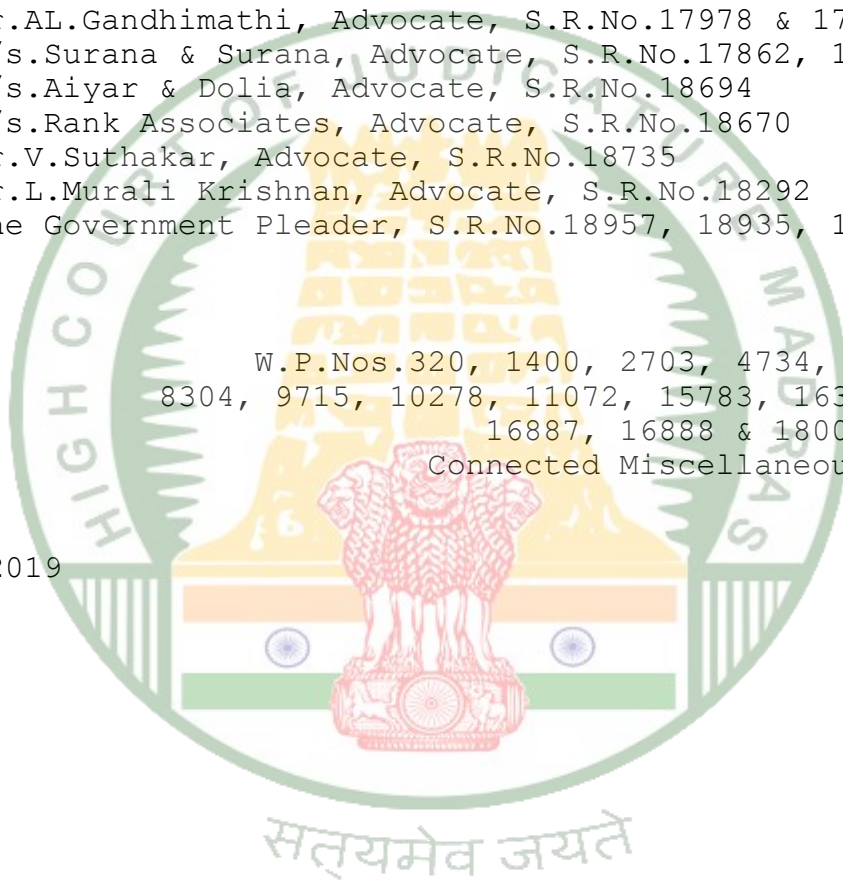
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Salai,
Egmore, Chennai - 600 008.

3. The Regional Deputy Director of Town and
Country Planning, Chengalpet Region,
124, GST Road, Chengalpet.

+5cc to Mr.R.Mohan, Advocate, S.R.No.17943 to 17947
+2cc to Mr.AL.Gandhimathi, Advocate, S.R.No.17978 & 17977
+2cc to M/s.Surana & Surana, Advocate, S.R.No.17862, 17863
+1cc to M/s.Aiyar & Dolia, Advocate, S.R.No.18694
+1cc to M/s.Rank Associates, Advocate, S.R.No.18670
+1cc to Mr.V.Suthakar, Advocate, S.R.No.18735
+1cc to Mr.L.Murali Krishnan, Advocate, S.R.No.18292
+1cc to the Government Pleader, S.R.No.18957, 18935, 18958

W.P.Nos.320, 1400, 2703, 4734, 5463, 7770,
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CA(CO)
CS/11/04/2019



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