

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.4185 of 2019
and W.M.P.Nos.4698,4699 and 4702 of 2019

M/s.Akshaya Private Limited,
Rep.by J.Ravi,
G Square, 4th Floor,
46, Rajiv Gandhi Salai,
Kandanchavadi,
Chennai-96.

... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by Secretary to Government,
Housing & Urban Development,
Fort St. George,
Secretariat,
Chennai-9.

2.The Member Secretary Incharge,
Mamallapuram Local Planning Authority,
Mamallapuram 603 104.
Kancheepuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the Government Order in G.O.Ms.No.135 Housing and Urban Development (SC1-2) Department dated 21.07.2017 of the 1st respondent herein and proceedings of the 2nd respondent herein bearing letter Na.Ka.955/2017 MLPA dated 25.09.2018 and quash the same demanding the shelter fee and direct the 2nd respondent herien to grant building plan approval to the petitioner for 568 residential houses consisting of stilt plus four floors in an extent of 15,684.01 sq.mtrs in survey No.222/1A Perumalerry Village, Vadakadampatti Panchayat.

For Petitioner : Ms.A.L.Ganthimathi
For 1st Respondent : Mr.B.Anand, GA
For 2nd Respondent : Mr.P.S.Ganesh

O R D E R

The Writ Petition has been filed challenging the proceedings of the 2nd respondent in Na.Ka.955/2017 MLPA dated 25.09.2018 demanding the petitioner to pay shelter fees.

2.The learned counsel for the petitioner would submit that the petitioner has challenged the impugned proceedings of the 2nd respondent dated 25.09.2018, demanding the petitioner to pay the shelter fees to the CMDA. The learned counsel for the petitioner strongly relied on the order dated 06.10.2017 passed by this Court in W.P.No.26172 of 2017 by granting stay of the collection of shelter fee, while dealing with a similar issue and sought to grant the same relief.

3.The learned Standing Counsel appearing for the respondents brought to the notice of this Court the amendment made to the Tamil Nadu Town and Country Planning Act, 1971 by Act No.14 of 2018, by insertion of new Sections 63-D and 63-E and the validation has been inserted in Section 64-4 giving retrospective effect for collection of shelter fees and therefore, the ground raised in this writ petition cannot be entertained.

4.In the light of the amendment to the Act No.14 of 2018 and the same is notified in Tamil Nadu Government Gazette No.46 dated 31.01.2018, the contention raised by the learned counsel for the petitioner is unsustainable. Therefore, the relief sought by the petitioner cannot be granted and this writ petition is dismissed. However, learned counsel for the petitioner seeks liberty to challenge the said Act No.14 of 2018. Accepting the submission, liberty is granted to the petitioner to workout his remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

gya

To

1.The Secretary to Government,
Government of Tamil Nadu,
Housing & Urban Development,
Fort St. George, Secretariat,
Chennai-9.

2.The Member Secretary Incharge,
Mamallapuram Local Planning Authority,
Mamallapuram 603 104.
Kancheepuram District.

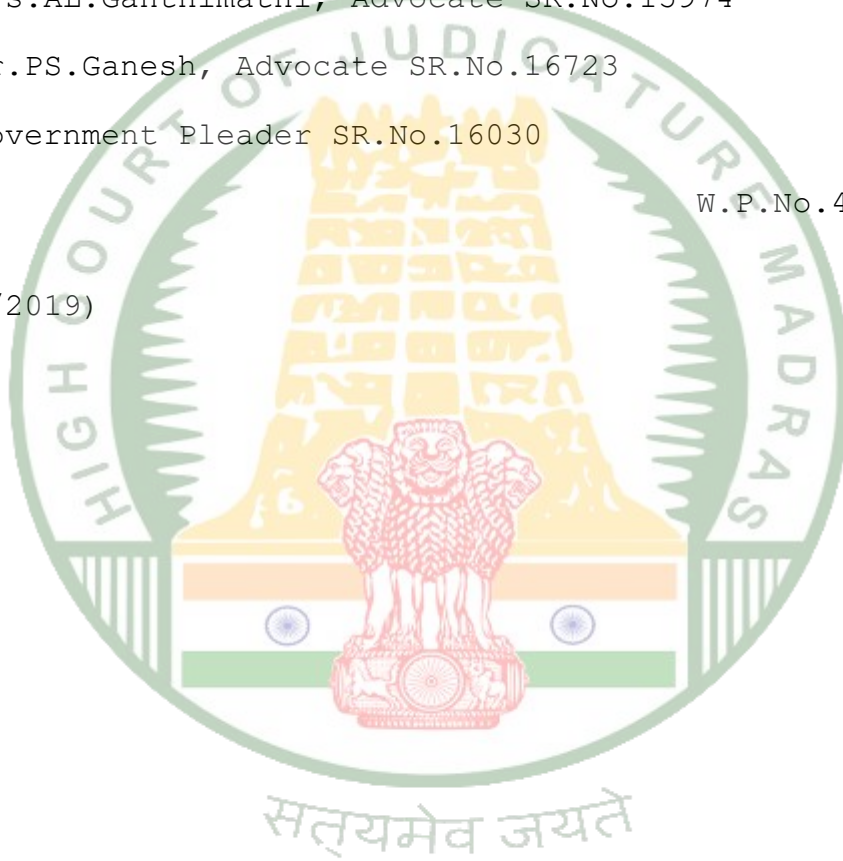
+1cc to M/s.AL.Ganthimathi, Advocate SR.No.15974

+1cc to Mr.PS.Ganesh, Advocate SR.No.16723

+1cc to Government Pleader SR.No.16030

W.P.No.4185 of 2019

RR(CO)
GMY(22/03/2019)



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