

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
and  
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1550 of 2017  
and  
Civil Miscellaneous Petition No.20326 of 2017

The Commissioner,  
Corporation of Chennai,  
Ripon Buildings,  
Chennai-600 003. ... Appellant/2<sup>nd</sup> Respondent

-vs-

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

2.The Chennai Metropolitan Development  
Authority (CMDA),  
Rep., by the Member Secretary,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

3.The Assistant Executive Engineer,  
Town Planning Approval Section,  
Regional Office South,  
Greater Chennai Corporation,  
No.115, Dr.Muthulakshmi Salai, Adyar,  
Chennai-600 020.

.. Respondents 1 to 3/  
Respondents 1, 3 & 4

4.A.Meena ... 4<sup>th</sup> Respondent/Petitioner

APPEAL under Clause 15 of the Letters Patent to set aside  
the order dated 06.04.2017 made in W.P.No.41084 of 2016.

Prayer in W.P.No.41084 of 2016:-

Writ Petition is filed under Article 226 of the  
Constitution of India, to issue order or direction in the nature  
of a writ of Certiorarified Mnadamus to call for the records of

of the 4th respondent made in the impugned order dated 09.08.2016 in RDC(S).C. No.A17/PPA/ 6896/2015 and quash the same and consequently direct the respondents to approve the building plan and permission in favour of the petitioner on receipt of the other charges except Open Space Reservation (OSR) claimed by the 4th respondent in the demand advice dated 15.02.2016

For Appellant : Mrs.Karthikaa Ashok  
Standing Counsel

For Respondent-1 : Mr.A.N.Thambidurai,  
Special Government Pleader

For Respondent-2 : Mr.Karthick Rajan

For Respondent-4 : Mr.Palanivel Rajan

#### JUDGMENT

(Delivered by T.S.Sivagnanam, J.)

This appeal filed by the appellant/2<sup>nd</sup> respondent is directed against the order in W.P.No.41084 of 2016, dated 06.04.2017.

2.Heard Mrs.Karthikaa Ashok, learned Standing Counsel for the appellant; Mr.A.N.Thambidurai, learned Special Government Pleader for R1; Mr.Karthick Rajan, learned counsel for R2; and Mr.Palanivel Rajan, learned counsel for R4.

3.The said writ petition was filed by the 4<sup>th</sup> respondent/petitioner challenging a demand for open space reservation charges as made in the demand advice dated 15.02.2016. The writ petition was allowed by the learned Single Bench taking note of an earlier order passed in a writ petition in W.P.No.33914 of 2014, dated 23.02.2015 [S.Raj Pandyan vs. The Principal Secretary, Government of Tamil Nadu Housing & Urban Development Department] wherein in respect of one Mr.S.Raj Pandyan, the demand for open space reservation charges was quashed. Following the said decision, the writ petition filed by the 4<sup>th</sup> respondent/petitioner was allowed by the impugned order.

4.The learned counsel appearing for the appellant submitted that the issue raised in this appeal has become academic, since the appellant-Corporation is no longer demanding open space reservation charges and since the 4<sup>th</sup> respondent has purchased the plot, an unapproved layout, if they seek for regularization,

they have to apply in terms of G.O.(Ms).No.172, Housing and Urban Development [UD4(3)] Department, dated 13.10.2017,

5.The learned counsel for the 4<sup>th</sup> respondent submitted that application for regularization has been submitted in terms of the Government Order on 05.10.2018 and this application has been taken on file as No.1703/4-1-2019 WDC No.A7/Land/Reg/FW/1696/17 CMDA/D/46064/17.

6.It is submitted by the learned Standing Counsel appearing for the appellant-Corporation that the application submitted for regularization is well within the time stipulated in the Government Order. Since the appellant-Corporation is not insisting upon the payment of open space reservation charges, the 4<sup>th</sup> respondent is required to pay only the development charges which will be at the rate of Rs.500/- per sq.m. of plot in City Municipal Corporation Area; Rs.250/- per sq.m. in Special and Selection Grade Municipal Area; Rs.150/- per sq.m. in Grade-I and Grade-II Municipal Area; Rs.75/- per sq.m. in Town Panchayat Area; and Rs.25/- per sq.m. in Village Panchayat area.

7.The learned counsel for the 4<sup>th</sup> respondent on instructions submitted that the 4<sup>th</sup> respondent is ready and willing to pay the development charges in terms of the Government Order.

8.Accordingly, this writ appeal stands disposed of by directing the appellant-Corporation to consider the application filed by the 4<sup>th</sup> respondent/petitioner dated 05.10.2018, apply the said Government Order in G.O.(Ms) No.172, dated 13.10.2017, issue a demand for payment of development charges in terms of the rates specified in the Government Order and on payment of the said amount, pass suitable orders for regularization of the plot purchased by the 4<sup>th</sup> respondent. The above direction be complied with, within a period of three month's from the date of receipt of a copy of this judgment.

9.With the above direction, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr

To

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

2.The Member Secretary,  
The Chennai Metropolitan Development  
Authority (CMDA),  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

3.The Assistant Executive Engineer,  
Town Planning Approval Section,  
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Greater Chennai Corporation,  
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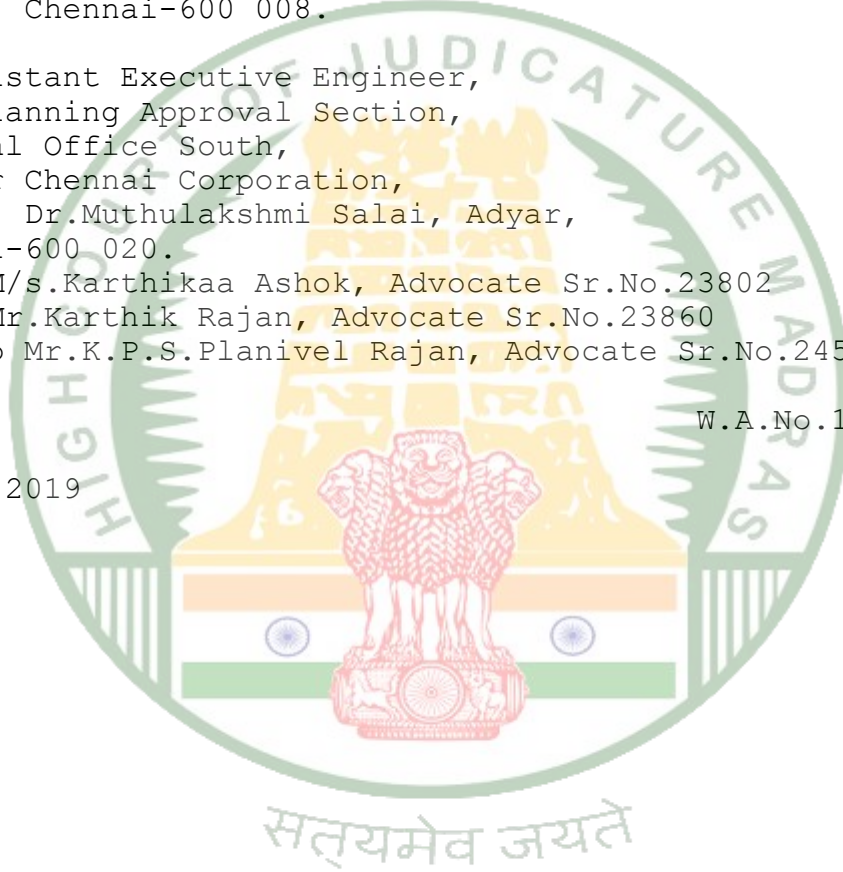
+1 cc to M/s.Karthikaa Ashok, Advocate Sr.No.23802

+1 cc to Mr.Karthik Rajan, Advocate Sr.No.23860

+2 cc's to Mr.K.P.S.Planivel Rajan, Advocate Sr.No.24556

W.A.No.1550 of 2017

GJ(CO)  
CSL/23.04.2019



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