

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.11110 of 2020 & W.M.P.No.11343 of 2020

Inter Mission Industrial Development Association
Rep.by its Power of Attorney Agent
R.V.Sundar

...Petitioner

-Vs-

1. Chennai Metropolitan Development Authority (CMDA), rep.by its Member Secretary Thalamuthu Natarajan Building No.1, Gandhi Irwin Road, Egmore Chennai 600 008.
2. The Government of Tamil Nady rep.by its Secretary, Housing and Urban Department Fort St.George, Chennai 600 009.
3. Chennai Metro Water Supply and Sewerage Board (CMWSSB), Rep.by its Managing Director No.1, Pumping Station Road, Chennai 600 002.Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records in proceedings Letter No. C3 (S) (/ 4837 / 2020 dated 30.07.2020 on the file of the 1st Respondent and quash the same as illegal and in violation of principles of natural justice equity and fair play and consequently direct the 1st the Respondent to refund the disallowed claims namely the Serial Nos 2 3,4,5,6,7,9,10,11 and 12 together with a sum to Rs.1,95,00,000/- paid to the 3rd Respondent in the impugned proceedings in Letter No. C3(S) / 4837 / 2020 dated 30.07.2020.

For Petitioner :Mr.P.B.Balaji

For Respondents :Mr.Arvind Pandian,

Addl.Advocate General

assisted by Mr.S.Thiruvengadam - for R1

Mr.E.Balamurugan,

Special Government Pleader - for R2

Mr.Jothi Kumar - for R3

O R D E R

On consent given by either side, the main Writ Petition itself has been taken up for final hearing.

2. This writ petition has been filed challenging the impugned proceedings of the first respondent dated 30.07.2020, wherein the first respondent had refused to sanction the amount under certain heads that was claimed by the petitioner.

3. The petitioner claims to be the owner of the subject property and they wanted to develop the property. The petitioner applied for planning permission before the first respondent viz., Chennai Metropolitan Development Authority for construction of four blocks and at the time of submitting the planning permission application, the petitioner had remitted various deposits under twelve (12) different heads. The amount paid / deposited by the petitioner is tabulated hereunder.

S.No.	Charges / Fees / Deposits	Amount
1.	Development Charge for land and building under Section 59 of the T&CP Act, 1971	Rs.22,50,000/-
2.	Interest on Development Charge	Rs.1,32,205/-
3.	Balance Scrutiny Fee	Rs.1,75,000/-
4.	Regularization Charges	Rs.29,33,000/-
5.	Security Deposit for Building	Rs.5,81,50,000/-
6.	Premium FSI	Rs.1,51,50,000/-
7.	Interest on Premium FSI	Rs.8,86,590/-
8.	Security for Display Board	Rs.10,000/-
9.	Infrastructure and Amenities Charges	Rs.3,88,50,000/-
10.	Interest on Infrastructure and Amenities Charges	Rs.34,10,290/-
11.	Shelter Fund	Rs.2,91,25,000/-
12.	Interest on Shelter Fund	Rs.16,08,660/-

4. The further case of the petitioner is that the planning permission was also granted by the first respondent by letter dated 29.05.2018. Unfortunately, the project itself was stopped and the petitioner approached the first respondent through letter dated 06.05.2020 and requested for cancellation of the planning permission and also sought for refund of the amounts paid / deposited by the petitioner under various heads.

5. The first respondent, on consideration of the representation made by the petitioner, issued the impugned letter dated 30.07.2020 wherein the first respondent had permitted for refund only under three heads and has refused to grant refund on the remaining heads. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate relief.

6. Heard Mr.P.B.Balaji, learned counsel for the petitioner and Mr.Arvind Pandian, learned Additional Advocate General, assisted by Mr.S.Thiruvengadam, learned counsel appearing on behalf of the first respondent C.M.D.A.

7. Learned Additional Advocate General submitted that the refund claimed by the petitioner will depend upon the entitlement of the petitioner and the same will be once again considered by the first respondent. Learned Additional Advocate General further submitted that the first respondent will consider the request made by the petitioner within a reasonable time.

8. Learned counsel for the petitioner Mr.P.B.Balaji submitted that the petitioner is entitled for refund under each and every head and there is no question of retaining any amount, in view of the fact that the project itself has been cancelled and the petitioner has sought for the cancellation of the planning permission. Learned counsel further submitted that the petitioner has paid substantial amounts by way of deposit at the time of making the application seeking for planning permission and therefore, the refund of the amounts will at least enable the petitioner to tide over the situation wherein the petitioner is already facing financial constraints.

9. This Court has carefully considered the submissions made by the learned counsel on either side and also perused the materials placed on record.

10. A careful reading of the impugned letter dated 13.07.2020 shows that the petitioner had claimed for refund of the charges / deposits made under twelve heads that has been extracted supra. Out of the twelve heads, the first respondent

had accorded sanction for refund only under three heads viz., Development Charges, Security Deposit for Building and Security Deposit for Display Board and has rejected the request made by the petitioner under the other nine heads.

11. In view of the fact that the project itself has been given up and the petitioner has sought for the cancellation of the planning permission, there is no reason for the first respondent to retain any of the amounts that was paid by the petitioner by way of charges / deposits under various heads. This Court does not find any reason as to why the petitioner is entitled for refund only under three heads and is not entitled for refund under the balance nine heads.

12. Even in the impugned letter dated 30.07.2020, the first respondent does not say as to why the petitioner is not entitled for refund under the balance nine heads. Therefore, this Court finds force in the plea made by the petitioner, who is seeking for refund of charges / deposits made under all the heads.

13. In view of the above discussion, the impugned letter dated 30.07.2020 issued by the first respondent is hereby quashed and the first respondent is directed to consider the representation made by the petitioner and shall refund the charges / deposits made under all the heads, within a period of three months from the date of receipt of a copy of this order.

14. The Writ Petition is disposed of in the above terms. No costs. Consequently connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

KST

To

1.Chennai Metropolitan Development Authority
(CMDA), rep.by its Member Secretary
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road, Egmore
Chennai 600 008.

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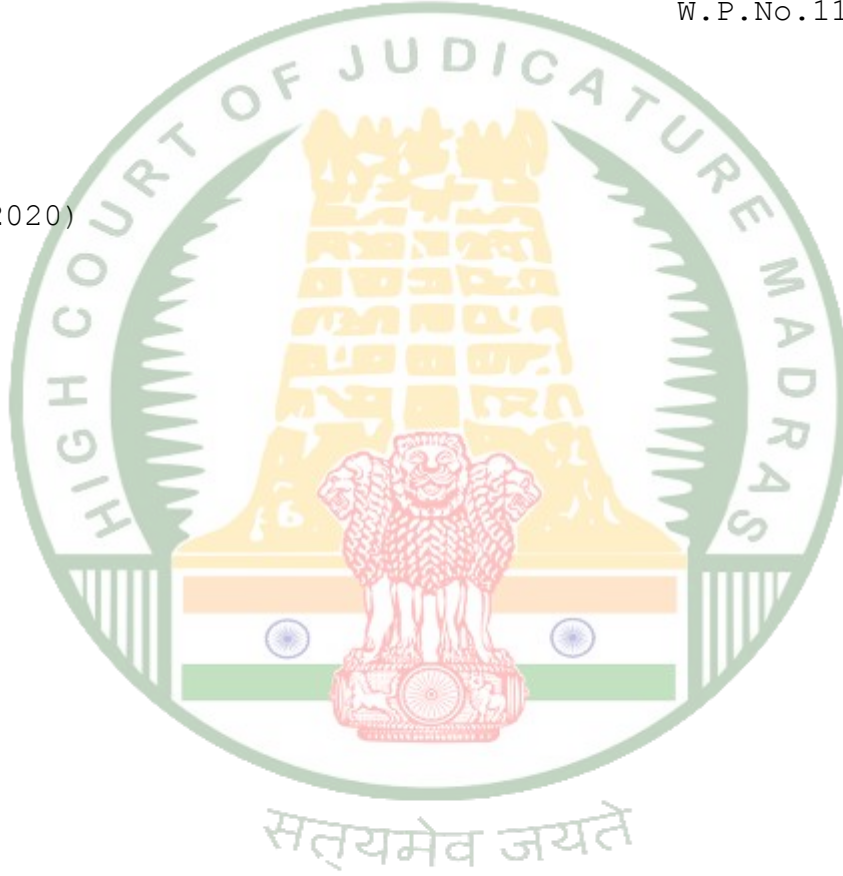
2.The Secretary to Government of Tamil Nady
Housing and Urban Development Department
Fort St.George, Chennai 600 009.

3.The Managing Director
Chennai Metro Water Supply and Sewerage
Board (CMWSSB) No.1, Pumping Station Road,
Chennai 600 002.

+3 CCS to Mr.P.B.Ramanujam, Advocate sr 27554.

W.P.No.11110 of 2020

SP(31/08/2020)



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