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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.11266 of 2019

W.M.P Nos.11623, 11619 & 11620 of 2019

Futura Polyesters Limited
Mumbai and having its registered office
at Paragon Centre,
Pandurang Budhkar Marg,
Mumbai-400 013 and represented by
its Authorised Signatory
M.Nirmal Raj

... Petitioner

vs.

1.The Commissioner,
Corporation of Chennai,
Chennai - 600 003.

2.The Regional Deputy Commissioner (North)
Corporation of Chennai,
O/o The Regional Deputy Commissioner (North),
No.61, Basin Bridge Road,
Royapuram,
Chennai - 600 021.

3.Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

4.The Assistant Executive Engineer,
Corporation of Chennai,
Amma Maligai, Ripon Building,
Chennai - 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the Assistant Executive Engineer, Corporation of Chennai, Amma Maligai, Ripon Building, Chennai - 600 003 and made in W.D.C.No.SD/WDCNo.3/00568/2018 dated 14.11.2018, the 4th



respondent herein and quash the same insofar with respect to the demand made toward vacant land tax to the tune of Rs.1,27,36,000/- is concerned and consequently direct the first respondent herein to issue necessary sanction plan to the petitioner herein pursuant to the part revision of the layout approval granted by the 3rd respondent herein in Lr.No.L1/18228/2018, dated 15.10.2018, as Approval No.PPD/LO.No.63/2018 in favour of the petitioner herein with respect to the properties comprised in Plot No.70 to 149, comprised in S.Nos.22, 23, 24, 25 etc. ChinnaSekkadu Village, Thiruvottiyur Taluk, Thiruvallur District and within such time as may be prescribed by this Court.

For Petitioners: Mr.D.Krishna Pradeep

For Respondents: Mr.V.C.Selvasekaran

Government Advocate for R1, R2 & R4

Ms.B.Manimegalai for R3

O R D E R

This writ petition has been filed challenging the impugned demand made by the 4th respondent dated 14.11.2018 with respect to the vacant land tax to the tune of Rs.1,27,36,000/- and for a consequential direction to the 1st respondent to issue necessary sanction plan to the petitioner, within the time limit prescribed by this Court.

2.The case of the petitioner is that they are the owner of the subject properties. The master plan that was issued by the CMDA had declared the relevant zone as a special and hazardous industrial zone. The petitioner applied for a layout approval before the 3rd respondent and the 3rd respondent granted an approval for the layout.

3.The petitioner pursuant to obtaining the layout approval was able to sell a few plots only. The petitioner therefore wanted to make the size of the plots smaller and therefore, applied before the 3rd respondent for the revised sub division of the plots, through an application dated 15.10.2018. The 3rd respondent also approved the revised layout subject to certain conditions as mentioned in the approved layout plan. After the grant of approval by the 3rd respondent, the same was forwarded to the 1st respondent.

4.In the meantime, the petitioner received the impugned demand dated 14.11.2018 from the 4th respondent directing the



petitioner to pay Scrutiny Fee, CMDA development Charges and Vacant land tax. The petitioner is aggrieved by demand of an exorbitant amount towards vacant land tax and hence, the present writ petition has been filed before this Court.

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5.The respondent Corporation has filed a counter affidavit. A specific stand has been taken in the counter affidavit to the effect that the petitioner had paid only the property tax arrears for the existing building on 30.06.2015 and had not paid the vacant land tax. It is further averred in the counter that the Council Resolution was passed on 27.02.2015, and it is only pursuant to this Resolution, the demand advice was made. Accordingly, the amount was collected at the rate of Rs.0.50/- per Sq.ft. for 13 half years for the approved layout extent of 36,38,857.00 Sq.ft. Accordingly, a total sum of Rs.1,27,36,000/- has been arrived. It was this amount that was directed to be paid by the petitioner by virtue of the impugned demand notice issued by the 4th respondent.

6.Heard Mr.D.Krishna Pradeep, learned counsel appearing on behalf of the petitioner, Mr.V.C.Selvasekaran, learned Government Advocate appearing on behalf of the respondents 1, 2 and 4 and Ms.B.Manimegalai, learned Standing Counsel appearing on behalf of the 3rd respondent.

7.The main grievance that has been raised by the learned counsel for the petitioner is that the impugned demand notice issued by the 4th respondent is completely bereft of details and it does not provide the manner in which the total amount of Rs.1,27,36,000/- was arrived at towards payment of vacant land tax. It was further submitted that Schedule IV of the Chennai City Municipal Corporation Act, 1919 provides for the taxation Rules and while fixing the amount, the procedure as contemplated under this Schedule was not followed.

8.A reading of the counter affidavit shows that the demand has been made pursuant to the Council Resolution dated 27.02.2015. It is not known as to whether this Resolution came to be passed after following the procedure under Schedule IV. In any case, the petitioner cannot challenge the impugned demand notice issued by the 4th respondent without challenging the Council Resolution, since, the impugned demand notice is only consequential in nature.

9.In view of the above discussion, this Court deems it fit to remand the matter back to the file of the 4th respondent. The 4th respondent shall provide with all the details along with the relevant materials to the petitioner for justifying the demand of Rs.1,27,36,000/- towards the vacant land tax. The petitioner on receipt of the same shall give their reply to the 4th



respondent. This process shall be completed, within a period of four weeks from the date of receipt of copy of this order. The 4th respondent shall thereafter place the report before the 1st respondent and the 1st respondent shall pass final orders, within a period of four weeks thereafter. On such order being passed by the 1st respondent, it is left open to the petitioner to either comply with the same or if they are aggrieved, to challenge the same in the manner known to law.

10. This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssr
To

1. The Commissioner,
Corporation of Chennai,
Chennai - 600 003.
2. The Regional Deputy Commissioner (North)
Corporation of Chennai,
O/o The Regional Deputy Commissioner (North),
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3. Chennai Metropolitan Development Authority,
Represented by its Member Secretary,
Thalamuthu Natarajan Building,
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Egmore, Chennai - 600 008.
4. The Assistant Executive Engineer,
Corporation of Chennai,
Amma Maligai, Ripon Building,
Chennai - 600 003.

+1cc to Mr.N.Damodaran, Advocate Sr.37581
+1cc to M/s.B.Manimegalai, Advocate Sr.37497

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ln[co]
srg 12/08/2021