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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.19897 of 2021

Ravishankar

... Petitioner

Vs

1. The State of Tamil Nadu rep. by its
Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Member-Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu - Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai - 600 008.
3. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 600 003.
4. The Senior Accounts Officer,
Accounts Main Division,
CMDA, Chennai - 600 008.

... Respondents

PRAYER :

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 2nd and 4th respondents to repay an amount of Rs.18,52,065/- (Rupees Eighteen Lakhs Fifty Two Thousand Sixty Five only) and the advance amount of Rs.25,000/- (Rupees Twenty Five Thousand only) along with an interest within period of time as decided by this Court.

For Petitioner : Mr.U.Devasenathipathi
for M/s.Nathan and Associates

For Respondents : Mrs.V.Yamuna Devi
Special Govt. Pleader (for R1)

: Ms.P.Veena Suresh
Standing Counsel (for R2 & R4)



: Ms.P.T.Ramadevi
Standing Counsel (for R3)

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The prayer sought for herein is for a writ of mandamus directing the respondents 2 and 4 to repay an amount of Rs.18,52,065/- (Rupees Eighteen Lakhs Fifty Two Thousand Sixty Five only) and the advance amount of Rs.25,000/- (Rupees Twenty Five Thousand only) along with an interest.

2. It is the case of the petitioner that, the petitioner father one G.Ramanujam developed a commercial property in R.S.No.486, Block No.29, Door No.1, Kutty Street, Nungambakkam, Chennai - 600 034. Since there has been some violation or deviation of the plan approval for completing the said commercial building, the petitioner father sometime in 2001 i.e. on 31.02.2001 made an application to the 2nd respondent to regularise such deviation.

3. On consideration of the said application submitted by the petitioner father on 02.04.2004, a letter was issued by the CMDA 2nd respondent to pay a sum of Rs.30,87,455/- for the process of application for regularising the building of the petitioner.

4. In response to the same, a sum of Rs.18,52,065/- was remitted on 20.04.2004 vide CMDA Cash Bill No.31823 by the petitioner.

5. However, subsequently the CMDA had rejected the said application submitted by the petitioner for regularisation of the deviated building by communication dated 08.08.2013 thereby the application of the petitioner for regularisation since was rejected after the demise of the petitioner's father, now the petitioner seeks for refund of the said amount of Rs.18,52,065/- remitted by the petitioner's father with interest and in this regard, the petitioner had given a representation on 24.03.2021 to the 2nd respondent i.e. CMDA and since the same has not been so far considered and no orders have been passed, the petitioner has moved this writ petition with the aforesaid prayer.

6. Heard Mr.U.Devasenathipathi, learned counsel appearing for the petitioner, who having reiterated the aforesaid, would seek indulgence of this Court to issue a direction to the CMDA to refund the said amount with interest till date.

7. Per contra, Mrs.V.Yamuna Devi, learned Special Government Pleader appearing for the 1st respondent and Ms.P.Veena Suresh, learned Standing Counsel appearing for respondents 2 and 4 would submit that, insofar as the refund of said amount is concerned, certainly, the petitioner may be entitled to get the refund amount. However, since the amount remitted by the petitioner has been in a separate Government account under the heading, fee paid for regularisation of the



the hands of the CMDA.

8. Therefore, in this regard, if at all the petitioner to get back the refund of amount with interest, he has to approach the 1st respondent State Government and it is for the State Government to make it.

9. In this context, the learned Standing Counsel for CMDA would submit that, if at all the Government asked any remarks in this regard as to the entitlement of the petitioner to get back the amount from the CMDA, certainly, the necessary remarks to that effect to get back the amount would be forwarded to the Government for necessary action.

10. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. Now one thing is clear that, the petitioner had remitted a sum of Rs.18,52,065/- for regularisation of the building, subsequently, since the application admittedly has been rejected by the 2nd respondent, the petitioner is entitled to get back the amount of course with interest.

12. In this context, now the only issue is that it is for the 1st respondent Government in whose control or custody amount is lying, it has to take a decision, for which, certainly, a positive remarks would be sent by the CMDA if such remarks is called for.

13. In that view of the matter, having considered the said submission made by the learned counsel appearing for the parties and by taking into account the aforesaid factual matrix, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the 2nd respondent CMDA to forward the application of the petitioner dated 24.03.2021 to the 1st respondent with remarks as to the entitlement or otherwise of the petitioner to get back the said amount of Rs.18,52,065/- with interest from 20.04.2021 till date and on receipt of such forwarding with comments from the CMDA on the application of the petitioner, the same shall be considered by the 1st respondent and pass orders thereon with regard to the returning of the said amount with interest to the petitioner. The needful, as indicated above, on the part of the CMDA shall be undertaken within a period of four



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weeks from the date of receipt of a copy of this order and the decision has to be taken by the 1st respondent within a period of four weeks thereafter. The decision in this regard by the respondents at their end shall be communicated to the petitioner.

14. With these directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Member-Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu - Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai - 600 008.
3. The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 600 003.
4. The Senior Accounts Officer,
Accounts Main Division,
CMDA, Chennai - 600 008.
5. The Government Advocate,
High Court, Madras.

+1cc to M/s.Nathan and Associates, Advocate, S.R.No.66805
+1cc to Ms.P.T.Ramadevi, Advocate, S.R.No.66574
+1cc to Ms.P.Veena Suresh , Advocate, S.R.No.66901
+1cc to the Government Pleader, S.R.No.67097

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