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W.A.No.3695 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVU

W.A.No.3695 of 2019

Mr.Rajendran Chingaravelu .. Appellant

-VS-

1. The State of Tamil Nadu
represented by Secretary to the Government
Municipal Administration and
Water Supply
Secretariat, Fort St.George
Chennai 600 009
2. The Member Secretary
Chennai Metropolitan Development Authority
1, Gandhi Irwin Road, Egmore
Chennai 600 008
3. The Commissioner
Poonamallee Panchayat Union
Poonamallee
Chennai 600 056
4. The Inspector General of Registration
No.100, Santhome High Road
Chennai 600 004 .. Respondents



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Appeal filed under Clause 15 of the Letters Patent against the order dated 19.06.2019 made in W.P.No.5484 of 2009.

For Appellant	::	Mr.R.John Joseph for M/s Giridhar and Sai
For Respondents	::	Mr.K.Karthik Jaganathan Government Advocate for R1, R3 & R4
		Mr.C.N.Vinobha for R2

JUDGMENT

(Judgment of the Court was made by T.RAJA, J.)

This writ appeal has been directed against the impugned order dated 19.06.2019 passed by the learned single Judge in Writ Petition No.5484 of 2009.

2. The brief facts of the case would show that the appellant/writ petitioner, having purchased plots in unapproved layout, bearing Nos.136, 136A situated at Survey No.211/30, 31 of Kattupakkam Village, Poonamallee Taluk, filed an application on 23.05.2008 to regularise the unapproved plots, on the basis of the G.O.(Ms.)No.11, Municipal Administration and Water Supply (MAI) Department dated 19.01.2006



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fixing the norms for regularisation of the unapproved layout plots. The third respondent issued the impugned communication dated 18.08.2008 demanding Rs.1,99,500/- towards the Open Space Reservation charges. In addition thereto, the appellant was also informed to remit the development charges for the land and building in a sum of Rs.3,900/-, regularisation charge of Rs.7,400/-, B.W.F. (Welfare Fund) of Rs.5,300/-, Flag Day contribution of Rs.500/- and the scrutiny fee of Rs.600/-. The learned counsel appearing for the appellant/writ petitioner fairly stating before this Court that the appellant, having paid both the development charges for the land and building along with the regularisation charges, at this stage, is not inclined to question the regularisation charges, since he is concerned only with Rs.1,99,500/- towards the Open Space Reservation charges.

3. The crux of the grievance projected by the appellant/writ petitioner shows that the third respondent has demanded Rs.1,99,500/- towards the Open Space Reservation charges without there being any basis or foundation to arrive at the said charges.



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4. Learned Government Advocate appearing for the respondents 1, 3 & 4 fairly submitted that if the appellant/writ petitioner moves a fresh application in terms of the G.O.(Ms.)No.78, Housing and Urban Development [UD4(3)] Department dated 04.05.2017 read with G.O.(Ms.)No.172, Housing and Urban Development [UD4(3)] Department dated 13.10.2017 inserting clause (v) to Rule 7(e) of the Tamil Nadu Regularisation of Unapproved Layouts and Plots Rules, 2017, which is extracted below,

“(v) The individual plot in a layout or a sub-division that were already sold shall be regularised with full exemption from the Open Space Reservation requirements of Development Regulations or Development Control Regulations.”,

the said application will be considered. He has also explained to us that in the light of the above rule position, the appellant will be exempted from paying the Open Space Reservation charges.



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5. Learned counsel appearing for the appellant/writ petitioner also submitted that he has not paid the Open Space Reservation charges as demanded under the impugned notice.

6. Having heard the learned counsel appearing for the parties, the appellant/writ petitioner is given liberty to move a fresh application, in terms of the G.O.(Ms.)No.78, Housing and Urban Development [UD4(3)] Department dated 04.05.2017 read with G.O.(Ms.)No.172, Housing and Urban Development [UD4(3)] Department dated 13.10.2017 inserting clause (v) to Rule 7(e) of the Tamil Nadu Regularisation of Unapproved Layouts and Plots Rules, 2017, as extracted above. If any such application is moved by the appellant, the same shall be considered by the respondents as indicated above on merits. Needless to mention that the benefit of exemption will be subject to the result of the pending writ petitions in W.P.Nos.19566 of 2015, 36574, 38728, 40157, 40158, 40255, 40215 of 2016, 7827, 10733 of 2017 and W.P.(MD) Nos.2500, 1169 of 2017 before the Division Bench of this Court. With this direction, the writ appeal stands



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disposed of. Consequently, C.M.P.No.23508 of 2019 is closed. However,

there is no order as to costs.

Speaking/Non speaking order

(T.R.,J.)

(P.D.A.,J.)

Index : yes/no

19.09.2022

ss

To

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