



W.A.No.104 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE Mr.JUSTICE KUMARESH BABU

W.A.No.104 of 2020

1.The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai - 600 003.

2.The Executive Engineer
Zone-XII
Greater Chennai Corporation
No.1, New Street
Near GST Road, Alandur
Chennai - 600 015.

.... Appellants

Vs

K.Ravichandran
Rep by its Power of Attorney Agent
Mr.N.Sriram
No.1, Jawaharlal Nehru Street
T.Nagar, Chennai - 600 017.

.... Respondent



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Prayer : Writ Appeal filed under Clause 15 of the Letters Patent Act praying to set aside the order of the learned Judge passed in W.P.No.10017 of 2019 dated 21.06.2019.

For Appellants : Mr.A.S.Ragul Adithya
for Ms.P.T.Ramadevi

For Respondent : Mr.V.Sundarraman

ORDER

[Order of the Court was made by R.SUBRAMANIAN.J]

Aggrieved by the order made in W.P.No.10017 of 2019, directing it to refund a sum of Rs.5,22,000/- collected by it towards building licence fee, tentative improvement charges, road cutting charges to the respondent/petitioner, the Greater Chennai Corporation is before us by way of this appeal.

2. The respondent herein had applied and obtained the planning permission for construction of eight dwelling units. The planning permission was accorded on 07.04.2012. The respondent had paid a sum of Rs.5,22,600/-, the break-up of which is as follows :



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<i>Heads</i>	<i>Amount (Rs.)</i>
Building Licence Fee	3,73,000.00
Scrutiny Charges	600.00
Tentative Improvement Charges	89,000.00
Road Cutting Charges by TNEB	20,000.00
Road Cutting Charges by CMWSSB (Water Supply)	20,000.00
Road Cutting Charges by CMWSSB (Sewerage)	20,000.00
Total :	5,22,6000.00

The respondent by his letter dated 12.12.2018, made a representation seeking refund of the monies paid, since he does not intend taking up the development. Since there was no reply from the appellant-Corporation, the first respondent moved this Court by way of writ petition in W.P.No.10017 of 2019.

3. The claim made by the Corporation was that since the planning permission itself had lapsed, the monies paid towards charges for development cannot be refunded. The respondent was also accused of latches.

4. The writ Court after having considered Section 50 of Tamil Nadu Town and Country Planning Act, has held that Section 50 of the Act only provides for the duration of permission and the power is vested in the Corporation to extend the duration. That would not however debar the respondent who had paid the fee



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from seeking refund of it. The very concept of fee, as known to law is a payment made for some work done as opposed to tax. Therefore, once some money is collected as fee, it has to be refunded if the service is not rendered or utilised. Hence, we see no case for interference with the order of the writ Court.

5. The Writ Appeal fails and it is accordingly dismissed. We find that the writ Court had directed the Greater Chennai Corporation to pay a sum of Rs.5,22,000/-, excluding a sum of Rs.600/- paid towards scrutiny fee without interest. Taking into account the pendency of the writ appeal and the fact that almost three years have lapsed since the order of the writ Court, we direct the appellant-Corporation to repay the sum of Rs.5,22,000/- within a period of four weeks from the date of receipt of a copy of this order. If the money has not been repaid by the appellant-Corporation within a period of four weeks as directed by this Court, it will carry interest at the rate of 9% from the date of filing of the writ petition till the date of payment. No costs.

[RSMJ] [KBJ]
30.09.2022

Index : Yes / No
Speaking order / Non-speaking order
ds



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R.SUBRAMANIAN. J.,
and
KUMARESH BABU.J.,

ds

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