



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.13944 of 2010

and

W.M.P(MD)No.1133 of 2021

T.Malayarasan

... Petitioner

Vs

- 1.The Secretary to Government of Tamil Nadu,
Department of Housing and Urban Development,
Chennai - 600 009.
- 2.The Commissioner of Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.
- 3.The District Collector,
Madurai,
Collectorate Building,
Madurai.
- 4.The Member Secretary,
Madurai Local Planning Authority,
Office of the Corporation Madurai,
Madurai - 625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus calling for the records from the fourth respondent in his proceedings in Na.Ka.No.1155/06, Mathi 3 dated 28.08.2010 and quash the same and consequently directing the second respondent to waive the infrastructure and amenities charges imposed upon the petitioner's Mill by considering it's representation dated 23.02.2010.

For Petitioners : Mr.M.Sridhar
For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate

ORDER

This writ petition is filed as against the demand notice, dated 29.08.2010 issued by the fourth respondent.



2.The respondents have charged Rs.125/- per Sqaure Metre by treating the building of the petitioner as a special building under the Tamil Nadu Town and Country Planning (Levy of Infrastructure) and Amenities Charges) Rules, 2008.

3.The case of the writ petitioner is that the building of the petitioner is an industrial building falling under the category of 5 of Rule 4 and therefore, he is liable to pay Rs.75/- per Square Metre and therefore, the petitioner's building cannot be treated as a special building at all, but the respondents have treated it as a special building and levied the charges exorbitantly.

4.The learned Additional Government Pleader appearing for the respondents submits that the petitioner is a spinning mill and having a built up area to an extent of 29,604/- Square Metres. As per Rule 2(f) of the Tamil Nadu Town and Country Planning (Levy of Infrastructure and Amenities Charges) Rules, 2008 (in short 'the Rules 2008'), any building, which exceeds 300 Square Metres is construed as a Special building and therefore, Rs.125/- Square Metre has to be levied. Based on Rule 2(f) of the Rules, 2008, the petitioner's building was charged and therefore, the amount arrived at by the respondents is proper and in accordance with law.

5.This Court has considered the rival submissions made on either side and perused the materials placed on record.

6.Admittedly, the petitioner has a built up area of 29,104/- Square Metres, which is not denied by the petitioner. The respondents have levied charges at the rate of Rs.125/- per Square Metres, as per Rule 2 (f) Tamil Nadu Town and Country Planning (Levy of Infrastructure and Amenities Charges) Rules, 2008 by treating the building of the petitioner as a special building.

7.It would be relevant to extract Rule 2(f) of the said Rules, which reads as under:

2(f) Special Building means having more than two floors, but not exceeding 4 floors inclusive of ground floor or a building with basement or stilt floor and 4 floors or a residential building having more than 4 dwelling units or a building accommodating commercial or industrial or institutional or combination of such activities with a floor area exceeding 300 square metres.

8.As per the above provisions, any building exceeding 300 Square metres falls under the special building category and since the petitioner is having a built up area to the extent of 29,104 Square Metres, it has to be treated as special building and charges are to be levied accordingly. Therefore, the respondents have rightly considered the petitioner's building as special building and charged accordingly. Therefore, this Court is not inclined to



interfere with the impugned order and accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition also stands dismissed.

9.At this juncture, the learned Counsel for the petitioner submits that though the respondents levy exorbitant charges, they are not providing any amenities. However, the petitioner is not expecting the same from the respondents. It is always open to the petitioner to work out his remedy in the manner known to law.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

dsk

To

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Department of Housing and Urban Development,
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+1 CC to M/s.M. SRIDHER, Advocate (SR-17133[F] dated 07/04/2022)

+1 CC to M/s.SPL.GP (SR-17184[F] dated 07/04/2022)

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