



W.P(MD)No.2525 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.2525 of 2014

and

M.P(MD)No.1 of 2014

M.Suresh Kumar

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the Proceedings of the Respondent dated 10.12.2014 and quash the same.

For Petitioner : Mr.K.Govindarajan

For Respondent : Mr.P.Athimoola Pandian



W.P(MD)No.2525 of 2014

WEB COPY

ORDER

The present writ petition has been filed challenging a demand notice issued by the respondent corporation, demanding a sum of Rs.97,480/- (Rupees Ninety Seven Thousand Four Hundred and Eighty only) towards infrastructure and amenities for the building plan approval given to the writ petitioner.

2. According to the learned counsel for the petitioner, the petitioner has applied for building plan approval for a residential house having ground floor and first floor. The learned counsel for the petitioner brought to the notice of the Court that as per Tamil Nadu Town and Country Planning (Levy of Infrastructure and Amenities Charges) Rules 2008, the infrastructure and amenity charges have to be paid only by a person, who is intending to construct of multistorey building or a commercial building or an information technology building or group development or a special building or an institutional building or an industrial building or a combination of any two of these categories. The learned counsel for the petitioner also brought to the notice of the Court the definition of multistorey building and special building, from which it



W.P(MD)No.2525 of 2014

could be deduced that unless the building is having more than 2 floors, the building cannot be considered to be a special building or a multistoried building. In the present case, building plan approval has been granted only for ground floor and first floor for residential purposes. Hence, infrastructure and amenities charges cannot be demanded.

3. Per contra, the learned counsel appearing for the respondent corporation strongly objected that the said rules have been modified in subsequent Government Order i.e., G.O.Ms.No.86, dated 28.03.2012.

4. However, a perusal of the said Government Order indicates that it has been issued as a consequence to the rules for fixing the rate of the charges to be collected for the buildings, for which the rules are applicable. Since this Court has already arrived at a finding that infrastructure and amenity charges are not applicable to the writ petitioner, the question of relying upon G.O.Ms.No.86 does not arise. Hence, the order impugned in the writ petition is clearly without jurisdiction and the same is set aside.



W.P(MD)No.2525 of 2014

WEB COPY

5. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

17.11.2022

Index : Yes / No
Internet : Yes / No

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To

The Commissioner,
Madurai Corporation,
Madurai.



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W.P(MD)No.2525 of 2014

R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.2525 of 2014

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