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WMP No.17978/2023 in
W.P.No.28375/2022

WMP No.17978 of 2023 in

W.P.No.28378 of 2022

D.KRISHNAKUMAR, J.

AND

P. B.BALAJI, J.

This petition has been filed to modify the interim order dated 27.10.2022, passed by this Court in W.P.Nos.28375 of 2022 and WMP Nos.27684, 27685 of 2022, by directing the third respondent to grant partial completion certificate to the petitioner for block Nos.8,9,11,14,16 & 17 in old survey numbers 367/1A2, 367/1B, 367/1C and 367/1D and new survey numbers 367/09 and 367/10 situated at No.16, GST Road, Perungalathur Village, Tambaram Taluk, Chengalpattu District, on payment of 50% of the shelter fee charges that would be payable by the petitioner, the total (100%) amount being 5,83,04,171.65 and 50% of the said amount being secured by a Bank Guarantee in favour of the third respondent, pending disposal of the writ petition .

2. This Court by an order dated 27.10.2022 has passed the following interim order



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8. In view of the above, there will be an order of interim stay of the impugned notice dated 03.10.2022 issued by the third respondent, on condition that the petitioner shall pay 50% of the demand raised in the impugned notice and to furnish bank guarantee for the balance 50% of the demand in the name of the third respondent within a period of three weeks from the date of receipt of a copy of this order. On such payment, the third respondent is directed to issue necessary completion certificate. The above order shall be subject to the result of the writ petition".

3. According to the petitioner company, already they had filed a writ petition in W.P.No.28290/2017, challenging the G.O.Ms.No.135, Housing and Urban Development (SC1-2) Department, dated 21.07.2017 and the consequential demand of shelter fee, vide letter dated 15.09.2017. The above writ petition came to be dismissed on 26.09.2022, based on the representation made by the respondents that, the above said G.O. has been amended, by Act 14/2018, inserting Sections 63-D, 63-E and 64(4) in the Tamil Nadu Town and Country Planning Act, 1971. The amendments were notified in the Tamil Nadu Government Gazette on 12.01.2018. Subsequently, with regard to the shelter fee,



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the Government of Tamilnadu has framed the Rule 34 of the Tamil Nadu Combined Development and Building Rules, 2019, vide G.O.Ms.No.18 dated 04.02.2019.

4. The learned counsel for the petitioner submitted that as per the amended Rule 2020, shelter fee should be paid at 1.2% on the guideline value per sq.m. He further submitted that though the impugned demand notice dated 03.10.2022 was made in the year 2022, the shelter fee was charged at Rs.13,85,00,000.00, based on the G.O.Ms.No.135 dated 21.07.2017, which is tabulated as below.

<i>Description</i>	<i>FSI Area in Sq.m.</i>	<i>75% of I & A charges</i>	<i>shelter fee charges</i>
IT/IT'es Block 25 to 29 and 7 (Mall Commercial FSI)	2,42,076.19	562.5	13,61,67,856.88
Block & (Mall-Residential FSI)	8,121.00	281.25	22,84,031.25
Total			13,84,51,888.13
Rounded off to			13,85,00,000.00

But as per the amended Rule 2020, the petitioner has to pay only Rs.5,83,04,171.65, which is tabulated as below.



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<i>Description</i>	<i>FSI Area in Sq.m.</i>	<i>1.2% of GLV in sl.m. (due to commercial)</i>	<i>shelter fund fee</i>
IT/IT'es Block 25 to 29 and 7 (Mall Commercial FSI)- 1.2% GLV	2,42,076.19	233.66	5,65,64,711.63
Mall-Residential FSI) 1.1% GLV	8,121.00	214.19	17,39,460.02
Total			5,83,04,171.65

Therefore, to that effect, the learned counsel for the petitioner seeks for modification.

5. The learned Additional Advocate General submitted that the demand was made with regard to the project for construction of the residential buildings, envisaged by the petitioner, prior to the amended rules and hence, they have to pay the entire demanded amount.

6. At this juncture, the learned counsel for the petitioner undertakes to pay the entire demanded amount of Rs.13,85,00,000.00 on the following terms, viz., i) by way of depositing a sum of Rs.5,83,04,171.65/- and ii) by way of furnishing immovable security (including third party guarantee) for the remaining sum of Rs.8,01,95,828.35.



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7. Inview of the undertaking given by the counsel for the petitioner, this Court is inclined to modify the earlier order passed by this Court dated 27.10.2022.

8. Accordingly, paragraph No.8 of the earlier order dated 27.10.2022 in W.P.Nos.28375 of 2022 and WMP Nos.27684, 27685 of 2022 is modified as follows.

8. Inview of the above, there will be an order of interim stay of the impugned notice dated 03.10.2022 issued by the third respondent on condition that,

i) the petitioner shall pay the entire demanded amount of Rs.13,85,00,000.00 by way of depositing a sum of Rs.5,83,04,171,65, within two weeks from the date of receipt of a copy of this order and by way of furnishing immovable security (including third party security) for the remaining amount of Rs.8,01,95,828.35, within two weeks from the date of deposit.

ii) If any default committed by the petitioner in complying the above said conditions, the modifying



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order passed by this court shall automatically be cancelled, without any reference to this Court.

On such compliance of the above conditional order made by the petitioner, the third respondent is directed to issue necessary completion certificate. The above order shall be subject to the result of the writ petition.

9. List the matter after three weeks.

(D.K.K., J.) (P.B.B., J.)

01.09.2023

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D.KRISHNAKUMAR, J.

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