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W.P.No.18140 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.18140 of 2010

and

M.P.Nos.1 & 2 of 2010

B.Lalitha

.... Petitioner

Vs

1.The Member Secretary,
CMDA, No.1, Gandhi Irwin Road,
Egmore, Chennai – 08.

2.The Registrar,
Registrar Office,
Neelankarai, Chennai.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice issued by the first respondent vide his Letter No.B1/22431/2008 dated 21.05.2010 demanding a sum of Rs.4,33,11,000 (Four Crores Thirty Three Lakhs and Eleven Thousand only) as premium FSI charges to grant permission to the petitioner Development pursuant to the letter of the second respondent dated 04.05.2010 without any authority and procedures and to quash the same and directing the first respondent to recalculate the premium FSI charges and returned the balance amount to the petitioner.

For Petitioner : Mr.S.Sundaresan



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For R1 : Mr.R.Arun Kumar
Standing Counsel
For R2 : Mr.V.Manoharan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the demand notice issued by the first respondent dated 21.05.2010, thereby rejected the objections raised by the petitioner on the demand for premium Floor Space Index (hereinafter referred to as “FSI”) charges and consequential direction to refund the amount already paid by the petitioner.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner owned a property comprised in Survey Nos.140/1A, 2A, 2B, 141/1 & 2, 145/2, 146/3B (Part) and 151/1, 2 situated at Perungudi Village, Chennai. The petitioner applied for planning permission for the construction of Group Development of four blocks of stilt plus four floors residential building with 316 dwelling units in the subject property on 26.12.2008 with a request to grant permission FSI. The planning permission was already sanctioned by an order dated 26.03.2007. Subsequently, the petitioner applied for revised plan and



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considering the same, the first respondent, by a communication dated 21.05.2010, issued demand directing the petitioner to pay various charges including the premium FSI to the tune of Rs.4,33,11,000/-. While fixing the premium FSI charge, the first respondent referred the Government order in G.O.Ms.No.163 H & UD Department, dated 09.09.2009.

4. As per the said Government order, certain guidelines were issued to fix the premium FSI charges. Accordingly, the amount to be paid by the applicants towards the premium FSI shall be equivalent to the cost of the proportionate land cost as per the guideline value of the registration department. Though the petitioner objected the guideline value as fixed by the first respondent, the petitioner paid the entire amount and completed the construction. Thereafter, the petitioner submitted an objections asking for refund of the differential amount of premium FSI charges.

5. The learned counsel appearing for the petitioner would submit that part of the subject property is abutting Telephone Nagar Main Road. Its width is 40 feet. However, the first respondent had taken the value of Telephone Nagar Main Road and calculated the premium FSI



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charges.

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6. A perusal of the key plan submitted by the petitioner reveals that the entire property is situated just adjacent to the Telephone Nagar Main Road, in which 11 cents of the said property is facing Telephone Nagar Main Road. Accordingly, the jurisdictional Sub Registrar submitted a report about the guideline value of the subject property at Rs.1,200/-. Though the petitioner had obtained information under Right to Information Act with regard to the guideline value for Kalveli Road at Rs.300/- and Karpaga Vinayagar Koil Street at Rs.800/-, there is no information about the guideline value for the Telephone Nagar Main Road.

7. A perusal of the report submitted by the Sub Registrar, Neelankarai, reveals that the guideline value of Telephone Nagar Main Road is mentioned as 1,250/- per square feet. Accordingly, the petitioner was rightly calculated the premium FSI charges.

8. Therefore, this Court finds no infirmity or illegality in the demand notice issued by the first respondent dated 21.05.2010. Thus,



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the writ petition lacks merits and it is liable to be dismissed. Accordingly,

this writ petition stands dismissed. Consequently, connected

miscellaneous petitions are closed. No costs.

21.08.2024

Internet: Yes

Index : Yes/No

Neutral Citation : Yes/No

Speaking/Non Speaking order

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To

1.The Member Secretary,
CMDA, No.1, Gandhi Irwin Road,
Egmore, Chennai – 08.

2.The Registrar,
Registrar Office,
Neelankarai, Chennai.

G.K.ILANTHIRAIYAN. J.

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