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W.P.No.15294 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

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

W.P.No.15294 of 2020

1.D.Rajappa

2.R.Jayalakshmi

... Petitioners

Vs.

1.The State of Tamilnadu,

Rep. By its Secretary to Government,
Housing and Urban Development Department,
Secretariat, St.Fort George, Chennai 600 009

2.The Additional Secretary(Technical),

Housing and Urban Development Department,
Secretariat, St.Fort George, Chennai 600 009

3.The Member Secretary,

Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi-Irwin Road,
Egmore, Chennai 600 008

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus to direct the third respondent to refund the amount of Rs.18,72,880.29 paise together with interest at the rate of 12% per annum till the date of making payment to the petitioners.



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For Petitioners : Mr.B.Deepak Narayanan

For Respondents

For R1 & 2 : Mr.V.Manoharan,
Additional Government Pleader

For R3 : Mrs.P.Veena Suresh,
Standing Counsel

ORDER

This writ petition has been filed for direction to the third respondent to refund a sum of Rs.18,72,880.20 paise together with applicable interest.

2. The petitioners are the owners of the property situated at Door No.229/183, GNT Road, Red Hills, Chennai situated in survey No.86/2 part, new survey no.86/100A1B and 86/100A1C, Naravarikuppam Village. The petitioners started construction of a commercial building for running their business in the name and style of D.R.Supermarket and furnitures. Thereafter, the petitioners applied for planning permission for the building. However, it was rejected holding that the building was already constructed and planning permission could



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not be given. Further it was stated that there is deviation in construction and no parking space has been provided. After modification, once again the application was submitted for grant of planning permission. Once again, it was rejected and the petitioner was issued with lock and seal notice. It was challenged before this Court. However, it was rejected and thereafter, appeal was also dismissed. In pursuant to the dismissal of the writ appeal, by another notice dated 31.07.2017, the second respondent passed order in GO(3D) No.133 Housing and Urban Development (UD VII (1)) Department. In consonance with the said order, Local Panchayat Authority ordered for demolition of the building.

2.1 As per the mandatory requirement for submitting application of OSR charges for regularisation of construction and accordingly, a sum of Rs.12,86,152.26 paise was paid and also fees to the tune of Rs.5,86,728/- was paid. However, it was not considered and rejected. It was also confirmed by the Courts. Therefore, the demolition of the building had to be done and accordingly demolished. At the time of application, the petitioners paid a sum of Rs.18,72,880.29 paise. This



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Court directed the third respondent to return the said amount within a period of one month from the date of demolition of the building. It was challenged by the respondents, but failed. Therefore, the petitioners are entitled for the said amount as directed by the Hon'ble Division Bench of this Court in WP.No.22058 of 2017 dated 03.01.2018.

3. The learned Standing Counsel appearing for the third respondent would submit that on receipt of the representation made by the petitioners, it was forwarded to the first respondent even as early as on 15.12.2020 and it is pending on the file of the first respondent.

4. In view of the above, the first respondent is directed to refund the sum of Rs.18,72,880.29 paise which was paid by the petitioners, as directed by this Court in WP.No.22058 of 2017 dated 03.01.2018 after deducting the amount which was spent by the third respondent while demolition, within a period of two weeks from the date of receipt of copy of this order.



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5. With the above direction, this writ petition is disposed of.

There shall be no order as to costs.

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(2/2)

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Secretary to Government,
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- 2.The Additional Secretary(Technical),
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