



W.P.No.17824 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.17824 of 2022
&
W.M.P.No.17172 of 2022

B.Raghava

...Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Principal Secretary to Government
Housing and Urban Development Department
Fort St.George, Chennai-600 009

2.The Chennai Metropolitan Development Authority (CMDA)
Rep by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order of the 1st respondent in G.O.(3D).No.38, Housing and Urban Development (UD.5(2)) Department, dated 07.06.2022 confirming the order of the 2nd respondent issued in Letter No.III/B6/16671/1999 dated 17.06.2020 and in Letter No.III/B6/16671/1999 dated 30.12.2020 demanding the balance regularization fee and other charges in respect of the Flat Nos.8 & 9 in Second Floor at Door No.16, Temple Street, Srinagar Colony, Saidapet, Chennai-600 015, quash the same.

For Petitioner : Mr.V.Sanjeevi



W.P.No.17824 of 2022

WEB COPY For Respondents : Mr.P.Kumaresan, AAG
assisted by
Mr.Y.Bhuvaneshkumar,
Standing Counsel for CMDA for R2

Mr.V.Nanmaran, AGP for R1

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorari to call for the records relating to the impugned order of the 1st respondent in G.O.(3D).No.38, Housing and Urban Development (UD.5(2)) Department, dated 07.06.2022 confirming the order of the 2nd respondent issued in Letter No.III/B6/16671/1999 dated 17.06.2020 and in Letter No.III/B6/16671/1999 dated 30.12.2020 demanding the balance regularization fee and other charges in respect of the Flat Nos.8 & 9 in Second Floor at Door No.16, Temple Street, Srinagar Colony, Saidapet, Chennai-600 015, quash the same.

2. The case of the petitioner is that the petitioner made an application on 28.05.1999 to CMDA for regularization of Flat Nos.8 & 9 (2 dwelling units) in 2nd floor for 176.61 sq.mts at Door No.16, Temple Street, Srinagar Colony, Saidapet, Chennai-600 015 on 28.05.1999 with



W.P.No.17824 of 2022

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all the necessary documents pursuant to the Tamil Nadu Town and Country Planning (Amendment) Act, 1988 through which Sec.113-A was introduced in the Tamil Nadu Town and Country Planning Act, 1971 for regularization. The said application was assigned as Reg.No.2504/99 dated 28.05.1999 by the CMDA. As per Sec.113-A of the Tamil Nadu Town and Country Planning (Amendment) ordinance 7 of 2000 (Tamil Nadu Act 31 of 2000) was further amended, whereby all building constructed on or before 31.08.2000 were made eligible to be considered for regularization on payment of the reduced regularization fee. Pursuant to the reduction of fee in the subsequent scheme 2000, the petitioner remitted the regularization fee of Rs.2,19,120/- and Rs.50/- towards scrutiny fee on 18.10.2000 and made revised application and the revised application is assigned as Reg.No.6044.

3. Considering the application for regularization, the 2nd respondent Member Secretary regularized the construction of the flats vide order dated 12.1.2001. The said regularization letter is addressed to the Commissioner, Chennai Corporation with a copy marked to the petitioner. Pursuant to which the Commissioner, Corporation of Chennai had also



W.P.No.17824 of 2022

approved the building by order dated 02.05.2001.

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4. The Government of Tamil Nadu further amended the Tamil Nadu Town and Country Planning (amendment) Ordinance 5 of 2001 (Tamil Nadu Act 17 of 2001) was promulgated putting off the date for regularization of unauthorized constructions to 31st July 2001 and thereafter, the cut-off date for regularization was again extended to 31st March 2002 by the Tamil Nadu Town and Country Planning (Amendment) Act, 2002 (Tamil Nadu Act 7 of 2002) and the regularization fee were also reduced. The Member Secretary, CMDA by letter dated 07.08.2002 forwarded the demand draft for Rs.11,310/- favouring Managing Director, CMWSSB towards infrastructure development charges to the Managing Director, Chennai Metropolitan Water Supply and Sewerage Board, Chennai, which clearly mentions that PPA received from the petitioner vide Reg.No.2504/99 and revised Reg.No.6044/2000 was examined and approved under the DCR.

5. The petitioner vide letter dated 13.08.2002 and 21.07.2003



W.P.No.17824 of 2022

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requested the 2nd respondent Member Secretary, CMDA for refund of the excess payment towards regularization fee in view of the reduction of fees by the Rules 2002. The 2nd respondent refunded the excess payment of a sum of Rs.1,21,426/- to the petitioner by way of cheque by order dated 02.06.2004. The 2nd respondent vide letter dated 12.12.2008 required the petitioner to produce the evidence to establish that the aid building was constructed prior to 28.02.1999. By representation dated 24.12.2008, the petitioner submitted all the documents numbering 10 to establish that the building was already regularized and the building was also constructed much earlier to 28.02.1999. Again, after lapse of another seven years, 2nd respondent by letter dated 04.09.2015 without reference to all the above factual matters, required the petitioner again to produce the documents mentioned therein for regularization of the building.

6. In response to the same by letter dated 16.09.2015, the petitioner submitted all the documents including the order of the regularization already made vide order dated 12.01.2001 and also the documents to establish the subject building was constructed prior to 1990. After five years, the 2nd respondent by communication dated



W.P.No.17824 of 2022

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17.06.2020 without even advertng to any of the matters aforesaid and that the building in question was already regularized by order dated 12.1.2001 observed that the application for regularization will be taken up for consideration if the amounts mentioned therein is paid.

7. The petitioner submitted a detailed reply/representation dated 03.10.2020 to the 2nd respondent stating interalia that the subject building was already regularized as early as on 12.01.2001 and the applicable fee for regularization was already made and requested to close the subject once and for all. The petitioner enclosed all the necessary documents again to show that the building was already regularized and the building was constructed much prior to 28.02.1999. Without considering the same and without proper application of mind, the 2nd respondent issued another letter dated 30.12.2020 reiterating the same demand as mentioned in the earlier letter dated 17.06.2020, to which the petitioner preferred an appeal to the 1st respondent U/s. 113A(6) of the Tamil Nadu Town and Country Planning Act, 1971. The 1st respondent rejected the appeal vide G.O.(3D) No.38, Housing and Urban Development (UD.5(2)) Department dated 07.06.2022.



W.P.No.17824 of 2022

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8. Heard Mr.V.Sanjeevi, learned counsel appearing for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.Y.Bhuvaneshkumar, standing counsel for CMDA for R2 and Mr.V.Nanmaran, learned Additional Government Pleader appearing for the 1st respondent.

9. This Court has perused the materials and the arguments advanced by both the sides. It is clear that the application for regularization has been filed by the petitioner on 28.05.1999 and demand notice was raised by the 2nd respondent on 11.04.2000 for Rs.4,43,000/- .The petitioner has deposited a sum of Rs.2,19,000/- on 18.10.2000 and regularization orders were made by the CMDA on 12.01.2001 and hence there cannot be any further demand by the authorities concerned and the impugned order of the 1st respondent in G.O.(3D). No.38, Housing and Urban Development (UD.5(2)) Department,dated 07.06.2022 confirming the order of the 2nd respondent issued in Letter No.III/B6/16671/1999 dated 17.06.2020 and in letter No.III/B6/16671/1999 dated 30.12.2020 demanding the balance regularization fee and other charges in respect of



W.P.No.17824 of 2022

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flat Nos.8 and 9 in Second Floor at Door No.16, Temple Street, Srinagar Colony, Saidapet, Chennai-600 015 is quashed and the Writ Petition is allowed as prayed for. Hence, there cannot be any demand from the respondents demanding the petitioner the balance regularization fee and other charges. As already the fees have been paid by the petitioner and regularization has been done, the petitioner shall not pay any further amount. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.06.2024

Index:Yes/No

Copy To:

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No.1, Gandhi Irwin Road
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W.P.No.17824 of 2022

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W.P.No.17824 of 2022

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