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W.P.No.18267 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM:

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

W.P.No.18267 of 2024

1. N.R.Dhanapalan
2. Violet Dhanapalan

... Petitioners

-Vs-

1. Government Of Tamil Nadu,
Represented By Its Principal Secretary,
The Housing And Urban Development Department,
Secretariat, Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.
3. The Deputy Financial Analyst,
Finance Division,
Chennai Metropolitan Development Authority,
Egmore, Chennai 600 008.
4. The Senior Accounts Officer,
Accounts (Main) Division,
Chennai Metropolitan Development Authority,
Egmore, Chennai 600008.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, direct the Respondents 3 and 4 and also the second respondent, to act upon the order of the second respondent dated 22.12.2023, bearing Proc.No.C3 (S) / 7622 / 2023 and consequently



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refund the sum of Rs 34,80,000/- (Rupees Thirty Four Lakh Eighty Thousand only) collected from the petitioners towards infrastructure and Amenities Charges and a sum of Rs.5,77,20,000/- (Rupees Five Crore seventy seven lakh and twenty thousand only) collected towards premium FSI Charges for the Planning Permit granted on 31.10.2013, bearing Letter number C3 / 9193 / 2012 and later renewed on 31.03.2017, vide permit no.11143 in file No.EC / SI / 19507 / 2013, within a reasonable time frame as fixed by this Honourable Court.

For Petitioners : Mr.C.P.Hemkumar
for Mr.Ganesh and Ganesh
For R1 : Mr.V.Manoharan
Additional Government Pleader
For R2 to R4 : Mr.Akil Akbar Ali
Standing Counsel

ORDER

This writ petition has been filed for direction directing the Respondents 3 and 4 and also the second respondent, to act upon the order of the second respondent dated 22.12.2023, bearing Proc.No.C3 (S) / 7622 / 2023 and consequently refund the sum of Rs.34,80,000/- (Rupees Thirty Four Lakhs Eighty Thousand only) collected from the petitioners towards infrastructure and Amenities Charges and a sum of Rs.5,77,20,000/- (Rupees Five Crore Seventy Seven lakhs and Twenty Thousand only) collected towards premium FSI Charges for the Planning Permit granted on 31.10.2013, bearing Letter number C3 / 9193 / 2012 and later renewed on 31.03.2017, vide permit no.11143 in file No.EC / SI / 19507 / 2013, within a reasonable time frame as fixed by this



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Honourable Court.

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

3. The petitioners are the owners of Plot No.48 part, 69 and 70 part, then Old Door No.8 and 70, New Door No.27, Grand Southern Trunk Road, Chennai measuring an extent of 16325 sq.ft., which is within the village limits of Zamin Pallavaram, bearing Town Survey Field No.73, Ward E, Block 21, Old Survey Field Nos.508/66, 508/64 (part), Alandur Taluk, (as per patta Pallavaram Taluk, Chengalpattu District).

4. The petitioners had applied for planning permission with the second respondent by an application dated 07.06.2012 for the purpose of developing a Hotel in the property along with all necessary documents. On receipt of the same, the second respondent, by its proceedings dated 31.10.2013 granted planning permission for construction of basement floor, ground floor part, stilt floor part plus 9 floors hotel building and also planning permission was valid from 31.10.2013 to 30.10.2016. The second respondent demanded a sum of Rs.34,80,000/- towards infrastructure and amenities charges and



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Rs.5,77,20,000/- towards premium FSI charge as per the demand made by the communication dated 19.04.2013. Accordingly, the petitioners had paid the sum with interest and the petitioners were also issued receipts dated 18.06.2013. However, the petitioners did not put up any construction over the said property as per the approval and the time also expired on 30.10.2016.

5. Thereafter, the petitioners made an application for renewal with the second respondent on 22.11.2016 and the same was received and the second respondent, by its proceedings dated 31.03.2017 extended the planning permission from 31.10.2016 to 31.10.2019. Even then, the petitioners were unable to put up construction due to various market factors. Therefore, the petitioners decided to withdraw from the development and made an application seeking refund of the deposits made by the petitioners to the second respondent on 18.06.2013. On receipt of the same, the second respondent, by its proceedings dated 22.12.2023 ordered for refund of deposits except I and A charges and FSI charges and directed the third respondent to take necessary action to place the proposal before the Tamil Nadu State Infrastructure and Amenities Promotion Committee and refund the sum of Rs.34,80,000/- and to take necessary action as directed by the Government in G.O.Ms.No.189, dated 26.10.2022 to refund the premium FSI charges of Rs.5,77,20,000/-.



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6. A perusal of G.O.Ms.No.189, dated 26.10.2022, it is clear that the premium FSI charges paid earlier shall not be refunded except the dropping of proposal. Admittedly, the petitioners dropped the development and they are entitled for FSI charges. Even after the order passed by the second respondent dated 22.12.2023, the respondents 3 and 4 did not pass any orders to refund the said amount.

7. In view of the above, the third and fourth respondents are directed to refund a sum of Rs.34,80,000/- (Rupees Thirty Four Lakh Eighty Thousand only) collected from the petitioners towards infrastructure and Amenities Charges and a sum of Rs.5,77,20,000/- (Rupees Five Crore seventy seven lakh and twenty thousand only) collected towards premium FSI Charges granted on 31.10.2013, bearing Letter number C3 / 9193 / 2012 and later renewed on 31.03.2017, vide permit no.11143 in file No.EC / SI / 19507 / 2013, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition stands allowed. No costs.

09.08.2024
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Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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To

1. The Principal Secretary,
Government Of Tamil Nadu,
The Housing And Urban Development Department,
Secretariat, Chennai 600 009.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road, Egmore,
Chennai 600 008.
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G.K.ILANTHIRAIYAN. J.

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