



W.P.(MD)No.26791 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.26791 of 2024
and
W.M.P.(MD)No.22716 of 2024

Nirmala Homes Private Limited,
Rep. By its Founder / Chairman,
Major Natarajan Narayanasamy (Retd.),
S/o. (late) Narayanasamy Naidu,
Residing at
No.175-C, Dharma Sastha Vihar,
Vilachery Main Road,
Muniyandipuram,
Madurai – 625 004.

... Petitioner

Vs.

1.The Madurai City Municipal Corporation,
Rep. By its Commissioner,
Anna Maligai,
Madurai – 625 002.

2.The Assistant Commissioner (Incharge),
Zone – 5, (West),
Madurai Corporation,
Madurai – 625 005.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records from the 2nd respondent in his proceeding W5F1/001833/2024, dated 26.04.2024 and quash the same.

For Petitioner	: Mr.N.Sathish Babu
For Respondents	: Mr.K.Kannan
	Standing Counsel



W.P.(MD)No.26791 of 2024

ORDER

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The prayer in the Writ Petition reads as follows:-

“To issue a Writ of Certiorari, calling for the records from the 2nd respondent in his proceeding MD571/001833/2024, dated 26.04.2024 and quash the same.”

2.Heard the learned counsel appearing for the petitioner, the learned Standing Counsel appearing for the respondents and carefully perused the entire materials available on record.

3.The petitioner is a promoter and entered an agreement with one AVN Constructions Pvt. Ltd., for constructing 168 flats in Madakulam Village, Muniyandipuram, Vilacheri Main Road, Madurai, which falls under the jurisdiction of the respondent authorities. An Application was submitted to the respondents for approving of lay out for constructing 168 houses and the same was forwarded to the Town and Country Planning Authority. The Director of Town and Country Planning Authority vide proceeding, dated 08.07.2002, granted approval for constructing 168 houses. In view of the same, construction was carried out and several houses were already sold to third parties. However, the respondents issued impugned notice dated 19.09.2014, calling upon AVN Constructions Pvt. Ltd., to remit a sum of Rs. 9,60,990/- as infrastructure and amenities charges. Challenging the same, a Writ Petition in W.P.(MD)No.15538 of 2015 was filed and this Court by



W.P.(MD)No.26791 of 2024

order dated 26.09.2023, allowed the Writ Petition by setting aside the impugned demand notice and remitting back the file to the respondent authorities to proceed afresh. Since the said demand notice came to be issued without serving Form B provisional notice and without calling for objection, the said demand notice came to be set aside by this Court on 26.09.2023. Later, on 26.04.2024, the impugned demand notice came to be re-issued without serving Form B provisional notice and calling for objection. Challenging the same, this Writ Petition came to be filed.

4.The power of local body to levy such charges by way of issuance of demand notice, had already been upheld in ***D.Manikandan v. State of Tamil Nadu*** reported in **2013 (5) CTC 494**. However, the said exercise should be done following the procedure established by law. Form B provisional notice has to be served and objection should be called for and only thereafter, Form C demand can be issued. However, such formality is not followed by the respondent authorities. In view of the same, the impugned order is hereby quashed and the matter is remitted back to the respondent authorities to proceed in accordance with law.



W.P.(MD)No.26791 of 2024

5.Hence, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

1.The Madurai City Municipal Corporation,
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Madurai – 625 002.

2.The Assistant Commissioner (Incharge),
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W.P.(MD)No.26791 of 2024

L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)No.26791 of 2024

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