



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.07.2025

WEB COPY

CORAM :

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.17443 of 2022
and WMP.No.16747 of 2022

M/s.Arun Excello Urban Infrastructure Private Limited,
Rep. by its Managing Director,
Bhattad Tower, No.18, West Cott Road,
Royapettah, Chennai – 14.

.. Petitioners

vs

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George
Chennai – 9.

2.Director of Town and Country Planning,
No.807, Anna Salai,
Chennai – 2.

3.Deputy Director,
Town and Country Planning,
Chengalpet District,
No.124, GST Road,
Chengalpet.

4.The Commissioner,
Marai Malai Nagar,
Municipality.

... Respondents



Prayer : Writ Petition is filed under Article 226 of the Constitution of India,

praying to issue a Writ of Mandamus directing the respondents herein to refund various charges collected as fees to the tune of Rs.1,20,20,700/- and to cancel the gift deed made in favour of the 4th respondent due to the fact the planning permission applied could not be pursued due to cancellation of the planning permit on the request of the petitioner.

For Petitioner : M/s.R.Kamala Rani
For Respondents : Mr.N.Naveen Kumar, GA for R1 to R3.
Mr.P.Srinivas, Standing counsel for R4.

ORDER

This writ petition has been filed to direct the respondents herein to refund various charges collected as fees to the tune of Rs.1,20,20,700/- and to cancel the gift deed made in favour of the 4th respondent due to the fact the planning permission applied could not be pursued due to cancellation of the planning permit on the request of the petitioner.

2. The petitioner states that the Petitioner company is a Flat developer engaged in development of flats in and around Chennai. The petitioner seeks the



respondents herein to refund various charges collected as fees to the tune of

Rs.1,20,20,700/- and to cancel the gift deed made in favour of the 4th respondent

WEB COPY

due to the fact the planning permission applied could not be pursued due to cancellation of the planning permit on the request of the petitioner during pandemic period during which there was no demand or takers of any flats and the entire industry was facing a crisis of market demand.

3. It is further submitted that the petitioner applied before all the authorities for the development of his property at S.No.101/1 etc., at Vallancheri Village, Marai Malai Nagar Municipality, Kancheepuram District starting from DTCP to Marai Malai Nagar municipality between 2017 and 2018 including TN RERA registration for the above development and also executed a gift deed towards open space reservation to the tune of 940.18 Sq.mt (10,120 Sq.ft) in favour of the 4th respondent on 06.09.2017 vide Doc.No.8669 of 2017.

4. The learned counsel further submits that subsequent to the market recession in the flat development after obtaining all permissions, the petitioner was unable to pursue the development activity due to act of God. Hence they



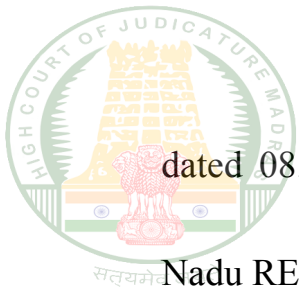
have made independent representation to DTCP, Marai Malai Nagar, Municipal authority/4th respondent and others seeking refund of the fees and cancellation

WEB COPY

of the gift deed. The power to levy various fees viz., infrastructure and amenities charges is traceable to section 63B of the Tamil Nadu Town and Country Planning Act, 1971, as per the rules made thereunder. The petitioner has no quarrel in making those payments as it is statutorily enabled and levied as per rules.

5. The learned counsel would further submit that the petitioner made several representations to the appropriate authorities for refund of the fees collected on a project which did not proceed even though by a letter, the petitioner sought for cancellation of the planning permission and consequential relief. The petitioner also approached the 4th respondent for cancelling the gift deed of OSR land to an extent of 10,120 sq.ft due to the fact the plan could not take off in the peculiar market condition.

6. It is further stated that the petitioner had obtained technical permission / approval for the proposed residential building in S.No.101/1, 102/1A, 102/1B, 102/2. 103/1A2 and 103/2B dated 28.04.2017 followed by Chengalpet DTCP

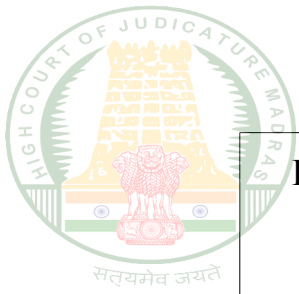


dated 08.12.2018, Marai Malai Nagar, Municipality dated 10.01.2017, Tamil Nadu RERA Registration dated 22.01.2018.

WEB COPY

7. The Tamil Nadu Real Estate Regulatory Authority in Form-C vide TNRERA/073/2018 dated 22.01.2018 granted permission to the petitioner for construction and the registration was valid till June 2020, unless renewed by the Real Estate Regulatory Authority in accordance with Section 6 read with Rule 7 of the Act. It is submitted that RERA vide letter No.TNRERA/2617/2018 dated 03.04.2019 cancelled the registration. It is further submitted that the Deputy Director I/c / Member Secretary Chengalpet vide Na.No.No.3271/2021/SEMA3 dated 18.11.2021 have stated that the property was inspected on 28.10.2021 and found no construction activity was taken place and the land is kept vacant without any development. Hence, the 3rd respondent recommends cancellation of the technical approval granted to the petitioner.

8. It is submitted that the petitioner had deposited a sum of Rs.1,20,20,970/- under various heads before the respondents 3 and 4 on several dates which is tabulated hereunder :-



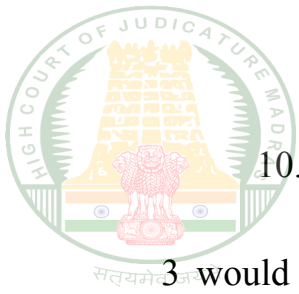
Date	Amount paid to 3rd respondent - Dy Director DTCP Chengelpet for according planning permission	Amount paid
26.09.2017	Infrastructure and Amenities charges	6150000
04.10.2017	Infrastructure and Amenities charges	410000
26.09.2017	Centage charges	20000
	Total (A)	6580000
	Amount paid to 4th respondent - The Commissioner Marai Malai Nagar Municipality for issue of Building permit	
09.01.2018	Building permit charges – Commissioner Maraimalai Nagar Municipality	800000
09.01.2018	Building permit charges – Commissioner Maraimalai Nagar Municipality	738520
09.01.2018	Rain water harvesting fee - Commissioner Maraimalai Nagar Municipality	176000
09.01.2018	Land Development charges - Commissioner Maraimalai Nagar Municipality	94010
09.01.2018	Building development charges - Commissioner Maraimalai Nagar Municipality	333760
09.01.2018	Vacant Land Tax & Library fee - Commissioner Maraimalai Nagar Municipality	867880
09.01.2018	Manual workers welfare fund – Tamil	800000



WEB COPY

	Nadu Construction workers welfare Board Chennai	
09.01.2018	Manual Workers welfare fund - Tamil Nadu Construction workers welfare Board Chennai	600000
09.01.2018	Manual Workers welfare fund - Tamil Nadu Construction workers welfare Board Chennai	754800
09.01.2018	Armed Forces Flag Day Fund	176000
15.09.2017	Swachh Bharat Mission for construction of toilets Commissioner Maraimalai Nagar Municipality	100000
	Total (B)	5440970
	Grand Total (A) + (B)	12020970

9. The learned counsel for the petitioner placed reliance on the order passed by this Court in *WP.No.18267 of 2024 dated 09.08.2024 in N.R.Dhanapalan and another V. Government of Tamil Nadu rep by its Principal Secretary, The Housing and Urban Development Department Secretariat, Chennai - 9 and three others*, wherein this Court directs the respondents therein to refund the infrastructure and amenities charges collected from the petitioner and the amount collected towards premium FSI Charges, within a period of eight weeks from the date of receipt of a copy of order.



WEB COPY

10. The learned Government Advocate appearing for the respondents 1 to 3 would submit that the 3rd respondent vide Na.Ka.No.956/17/SEMA3 dated 08.01.2018 has forwarded the proposal to the 2nd respondent / Director of Town and Country Planning, Chennai to cancel the technical clearance and to cancel the proposed planning construction, till date the same is pending.

11. He would further submit that another proposal has also been sent on 27.03.2025 to the second respondent for cancelling the approval granted to the petitioner and the same is also pending before the 2nd respondent.

12. The fourth respondent filed counter affidavit on 08.08.2022. The learned standing counsel for the 4th respondent contended that the 4th respondent had granted permission to the petitioner vide Na.Ka.No.1534/2017/A1 dated 10.01.2018 and the same is valid for three years from 10.01.2018 to 09.01.2021.

13. The learned standing counsel for the 4th respondent would submit that the gift deeds for the areas reserved for Open Space Reservation (OSR) of 940.18 sq.mtr was received by way of gift deed. It is further submitted that



after issuance of building permission, it is for the petitioner to carry out the required construction and complete the same within the period of licence that is

WEB COPY

granted. The validity of the building permission is upto 09.01.2021 and the petitioner has not made out any application within the said period and the petitioner requested for cancellation only on 04.10.2021 which is nine months beyond the expiry period of building permission.

14. It is further submitted that the refund of licence fees after the expiry of the period for which the licence was granted is entirely untenable. The building licence was granted is entirely untenable, the building licence is issued with certain fixed time periods and the petitioner to carryout the construction works within the said period, failure to complete the work within the said period and having not submitted any representation within the validity period, it is not open for the petitioner now to submit the representation, seeking for cancellation of the licence, that was already expired on 09.01.2021.

15. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and the learned standing counsel appearing for the 4th respondent and perused the materials



available on record.

WEB COPY

16. In this case, the petitioner obtained technical permission / approval for the proposed residential building on 28.04.2017, followed by Chegalpet DTCP dated 08.12.2018, Marai Malai Nagar Municipality dated 10.01.2018, Tamil Nadu RERA Registration dated 22.01.2018, after paying the infrastructure and other statutory fees and executed Gift Deed in respect of OSR requirement. After obtaining all the above technical approvals, the petitioner found it difficult to carry on with the project and applied for cancellation of the permission granted and seeks refund of the statutory charges paid for the respective development. The Tamil Nadu RERA registration has categorically stated that the registration shall be valid till June 2020 unless renewed by RERA. The Tamil Nadu RERA by letter No.TNRERA/2617/2018 dated 09.04.2018 has accepted the request of the petitioner for cancellation of registration, accordingly under project registration number TN/01/Building/0029/2018 dated 22.01.2018. The approval granted by the 4th respondent /Municipality in Na.Ka.No.1534/2017/A1 dated 10.01.2018 is valid for a period of three years from 10.01.2018 and the same got expired on 09.01.2021.



WEB COPY

17. The main contention of the 4th respondent is that the petitioner has given representation for cancellation of building permission only on 04.10.2021, whereas the validity of the building permission got expired on 09.01.2021. Hence, there is a delay of nine months in submitting the application. It is further contended that having obtained the building permission, it is the duty of the petitioner to carryout the construction within the prescribed period. The RERA registration got expired on June 2020, much before the expiry of building permission on 09.01.2021.

18. It is pertinent to note that once the RERA registration expires during June 2020, then the petitioner cannot construct without renewing the same, in accordance with Section 6 read with Rule 7 of the Act. The petitioner had already approached the RERA and inturn the RERA has passed an order dated 09.04.2018 cancelling the registration granted to the petitioner vide Registration No.TN/01/Building 0029/2018 dated 22.01.2018, which is prior to expiry of the building licence i.e., on 09.01.2021. Hence, the contention of the 4th respondent is unsustainable for the reasons that three year period commences from 10.01.2018 and get over on 09.01.2021. Whereas, the cancellation was done by



the RERA in the year 2019 itself i.e., on 03.04.2019. It is also to be noted, the

Chairperson, TNRERA signed the letter on 09.04.2018 itself. The said

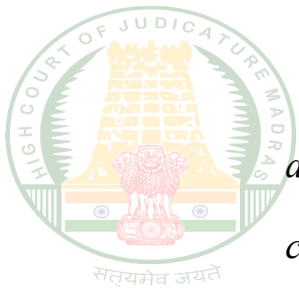
WEB COPY

cancellation was done based on the representation of the petitioner dated

20.08.2018 and 30.01.2019.

19. The learned counsel for the petitioner placed reliance on the order passed by this Court in ***WP.No.18267 of 2024 dated 09.08.2024 in N.R.Dhanapalan and another V. Government of Tamil Nadu rep by its Principal Secretary, The Housing and Urban Development Department Secretariat, Chennai - 9 and three others***, the relevant paragraphs are extracted hereunder :-

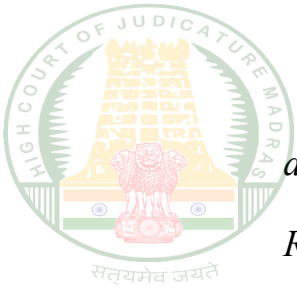
“4. The petitioners had applied for planning permission with the second respondent by an application dated 07.06.2012 for the purpose of developing a Hotel in the property along with all necessary documents. On receipt of the same, the second respondent, by its proceedings dated 31.10.2013 granted planning 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



WEB COPY

a sum of Rs.34,80,000/- towards infrastructure and amenities charges and 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

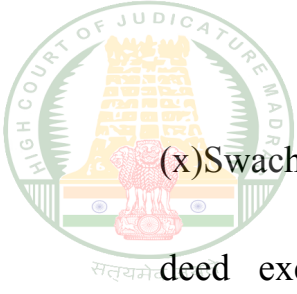


WEB COPY

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/-.

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.

20. In view of the above factual matrix of the case and in the light of the order passed in similar writ petition in WP.No.18267 of 2024 dated 09.08.2024, this Court is inclined to direct the respondents herein to refund the sum of Rs.1,20,20,970/- collected from the petitioner under various heads viz., (i)infrastructure and Amenities charges (ii)Centage charges (iii)Building permit charges (iv)Rain water harvesting fee (v)Land Development charges (vi)Building Development charges (vii)Vacant Land Tax & Library fee (viii)Manual workers Welfare Fund (ix)Armed Forces Flag day fund and



(x)Swachh Bharat Mission for construction of Toilets, and to cancel the Gift

deed executed in favour of the 4th respondent dated 06.09.2017 vide

WEB COPY

DOC.No.8669 of 2017 on the file of SRO, Chengalpattu, within a period of eight weeks from the date of receipt of a copy of this order.

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

Consequently, connected miscellaneous petition is closed.

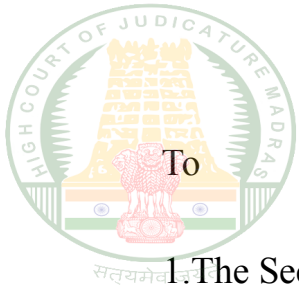
14.07.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

tsh/dsn



To

WEB COPY

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai – 600 009.

2.The Director of Town and Country Planning,
No.807, Anna Salai,
Chennai – 600 002.

3.The Deputy Director,
Town and Country Planning,
Chengalpet District,
No.124, GST Road,
Chengalpet.

4.The Commissioner,
Marai Malai Nagar,
Municipality.



WEB COPY

W.P.No.17443 of 2



N.MALA, J.

tsh/dsn

W.P.No.17443 of 2022

14.07.2025