

(2012) 12 MAD CK 0045

In the Madras High Court

Case No : Writ Petition No's. 25677 and 25678 of 2012

Prestige Estates Projects Limited

APPELLANT

Vs

State of Tamil Nadu and Urban Development Department and
Others

RESPONDENT

Date of Decision : 13-12-2012

Acts Referred:

Constitution of India, 1950 — Article 14
Negotiable Instruments Act, 1881 (NI) — Section 80
Registration Act, 1908 — Section 80
Sales of Goods Act, 1930 — Section 61(2)
Tamil Nadu Town and Country Planning Act, 1971 — Section 59, 60

Citation : (2013) 1 MLJ 821

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : Sriram Panchu, for R. Senthil Kumar, for the Appellant; A. Navaneetha Krishnan, Advocate General for Ms. V.M. Velumani, Spl. Govt. Pleader and A. Kumar, for the Respondent

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—W.P. No. 25677 of 2012 has been filed, praying for issuance of a writ of certiorari mandamus, to call for the records of the second respondent culminating in the impugned Demand Notice dated 22.8.2012, Letter No. C3(N)/4606 of 2011, quash the same and consequently direct the second respondent to issue Planning Permission and release the approved drawings to the petitioner pursuant to its application, dated 22.3.2011, and based on the letter dated 5.1.2012 from the first respondent and Original Demand Notice dated 27.3.2012 from the second respondent. W.P. No. 25678 of 2012 has been filed, praying for a declaration, declaring that the Government Order G.O. Ms. No. 86, dated 28.3.2012, has no application in respect of the infrastructure and amenities charges calculated and demanded in accordance with government order G.O. Ms. No. 161, dated 9.9.2009.

2. Since the prayers of the petitioner are interconnected, both these Writ Petitions are being disposed of in common.

3. Facts:

3.1 The petitioner is engaged in the business of real estate development across India and in the course of its business entered into a Joint Development Agreement, dated 15.7.2010, with the owner of the said land viz., Extra IT Parks Private Limited, on an area sharing basis, with respect to lands situated at Mount Poonamallee High Road, Ayyappathangal Village, Chennai. Pursuant thereto, the owner of the land executed a General Power of Attorney, dated 15.7.2010, registered as Document No. 1285/2010, in the Office of the Sub-Registrar-1, Chennai South, whereby the petitioner was empowered to develop the property by constructing residential apartment buildings upon obtaining required planning permission and no-objection certificates from various authorities to develop the property. Thus, the petitioner is the developer of the property and also an agent of the land owner.

3.2 On 22.3.2011, the petitioner had made an application for grant of planning permission to the second respondent for construction of 33 multi-storied buildings of residential apartments on the property. In the meanwhile, the petitioner sought no-objection certificates from various departments, such as, Airports Authority of India, Fire & Rescue Services Department, Police Department etc., for construction of the aforesaid 33 blocks on the property. The said authorities have given no-objection certificates on various dates to the proposed development on the property subject to certain conditions stipulated therein.

3.3 On 5.1.2012, the first respondent accepted the recommendation of the Multi-storied Building Panel and accorded its approval for construction of multi-storied buildings on the property by Letter (Ms) No. 9, dated 5.1.2012, addressed to second respondent, on the condition that the petitioner gifts a portion of its land for road widening and open space reservation (OSR) portion. The petitioner was also required to obtain no-objection from Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) for using its land in S. Nos. 51/1B2 and 1C2 for access to the property. The aforesaid conditions were satisfied by the petitioner by obtaining a no-objection certificate, dated 30.3.2012, from CMWSSB for using its land for access to the property and by executing two Gift Deeds, both dated 27.4.2012, in favour of the second respondent, gifting portions of the property for road widening and OSR purposes. Possession of the gifted portion of the property was taken over by the second respondent on 24.5.2012.

3.4 Upon receipt of the application for planning permission made by the petitioner, the second respondent issued the Original Demand Notice, dated 27.3.2012, demanding payment of various charges to be paid for issuance of planning permission for construction of 33 multi-storied buildings on the property.

3.5 As per the Original Demand Notice, the second respondent called upon the

petitioner to pay a sum of Rs. 58,90,38,000/- under various heads, which includes a sum of Rs. 8,34,40,000/- towards infrastructure and amenities charges (I & M Charges) and a sum of Rs. 44,75,88,000/- towards Premium FSI charges for 78,690.55 sq.mtrs.

3.6 The only condition concerning payment under the Original Demand Notice was that the petitioner had to pay the aforesaid amount within one month from the date of receipt of the Original Demand Notice. If the amount was not paid within one month, interest of 12% per annum would be imposed on the amounts demanded from the date of issuance of the Original Demand Notice up to the date of payment. It was further provided therein that if the payment was not made within 60 days from the date of issue of the Original Demand Notice, the papers would be returned to the petitioner unapproved.

3.7 Accordingly, the petitioner, on 29.3.2012, had, vide four demand drafts, duly paid the amounts demanded under the Original Demand Notice, dated 27.3.2012, and four receipts were issued by the second respondent under various heads. Receipt No. 005480, dated 29.3.2012, for an amount of Rs. 8,34,40,000 was issued by the second respondent for I&M Charges and Receipt No. 005481, dated 29.3.2012, was issued by the second respondent for an amount of Rs. 44,75,88,000/- towards Premium FSI charges.

3.8 Upon satisfying the payment conditions stipulated under the Original Demand Notice, dated 27.3.2012, the petitioner had, vide its letter, dated 30.3.2012, requested the second respondent to issue the planning permission. When that be so, the second respondent issued another demand notice viz., impugned Demand Notice, dated 22.8.2012, demanding additional sum for the very same property. Hence, the petitioner is before this Court.

4. First respondent/State has filed a counter affidavit, stating as follows:

4.1 A small strip of land in S. No. 51/1B2 and 51/1C2 belonging to CMWSSB divides the site into two parcels. The petitioner has furnished no objection certificate from CMWSSB to have access to the rear side of their property through the strip of land. Since CMWSSB has issued NOC subject to the condition that they reserve the right to withdraw the permission granted at any time without assigning any reason, they were requested to issue fresh NOC by CMDA vide their letter dated 13.10.2011. The matter was placed before the 197th Multi Storied Building Panel meeting held on 18.11.2011, wherein the Panel recommended to forward the proposal to the Government, recommending for approval after fresh No Objection Certificate from CMWSSB for using their land in S. No. 51/1B2 and 1C2 as access to the rear side of the proposal is received. Thereafter, in the subsequent meeting held on 5.12.2011, the Committee decided to modify the earlier condition of forwarding the proposal to the Government subject to the petitioner furnishing No Objection Certificate from CMWSSB to the effect that the petitioner should submit No Objection Certificate from CMWSSB before the issue of Development Charges Advice. Hence,

obtaining and furnishing NOC from CMWSSB on the part of the petitioner is a pre-condition for issue of Development Charges Advice.

4.2 Based on the recommendations of the Panel, the Government, in its letter vide G.O. Ms. No. 9 Housing and Urban Development Department (UD.1) Department, dated 5.1.2012, had accorded approval for the construction, subject to the conditions that CMDA should ensure that the petitioner gifts the road widening portions marked in the plan to CMDA along with OSR spaces before issue of planning permission and that the petitioner should furnish No Objection Certificate from CMWSSB for using their land in S. Nos. 51/1B2 and 1C2 for access before issue of Development Charges advice.

4.3 Regarding No Objection Certificate from CMWSSB, the petitioner, in its letter dated 2.3.2012, requested CMDA to issue DC advice stating that CMWSSB, in letter No. CMWSSB/T&T/530/MLD/154/2012, dated 6.2.2012, have accepted to issue No Objection Certificate on complying with certain conditions and the petitioner has accepted those conditions in their letter dated 18.2.2012. However, as per the conditions stipulated in the Government Order, the DC advice is issuable to the petitioner only after he furnishes an updated NOC from CMWSSB. The petitioner informed CMDA that they have been pursuing issuance of updated NOC from CMWSSB and that they are expecting the formal NOC from CMWSSB shortly. The petitioner made a specific request to CMDA to issue DC advice as an interim action in order to enable them to access the fund requirement on their part towards payment of the applicable charges and fee in order to make arrangement for mobilization of the fund.

4.4 Following the request of the petitioner, the demand for DC and other charges was raised in the letter, dated 27.3.2012, of the Member Secretary, CMDA. The I&A charge was calculated at the rate of Rs. 250/- per sq.m. for residential development and at the rate of Rs. 500/- per sq.m. for the club house portion. The premium Floor Space Index charge was calculated for the maximum guideline value of Rs. 1,321/- per sq.ft. The petitioner has remitted all the charges in receipts, dated 29.3.2012. While so, the Government, in G.O. Ms. No. 86, Housing and Urban Development (UD4-1) Department, dated 28.3.2012, issued orders based on the decision taken by the Government, enhancing the I&A charges by 50% with effect from the date of issue of order. Accordingly, the I&A charges for residential and commercial multi storied building development are Rs. 375/- per sq.m. and Rs. 750/- per sq.m. respectively. The Government has also revised the guideline values upwardly w.e.f. 1.4.2012 and the revised guideline value for the site of the petitioner is Rs. 4000/- per sq.ft. CMSWWB, in its letter No. CMWSSB/T&T/530/MLD/154/2012, dated 30.3.2012, has issued revised No Objection Certificate to use its land as access to the rear side of the property, with a condition that the applicant should pay annual rent and the conditions should be included in the sale deeds along with other conditions. On 30.3.2012, CMWSSB has issued No Objection Certificate and in the meanwhile the I&A charges and Guideline Value were revised on 28.3.2012 and 1.4.2012

respectively.

4.5 The letter of CMWSSB, dated 30.3.2012, was received by the first respondent on 2.4.2012, which was subsequent to the date to the revision of I&A charges and guideline value. Hence, it was decided to revise the Development Charges advice, dated 27.3.2012, and to raise the demand of I&A charges and premium FSI charges at the revised rates.

4.6 As per the condition stipulated in the order approving the proposal, the Development Charge advice is issuable on receipt of updated No Objection Certificate from CMWSSB. As the petitioner furnished required NOC obtained from CMWSSB only on 2.4.2012, the proposed development attracted levy and collection of the applicable charges and fee as per the rates and procedure that were prevailing on 2.4.2012. Accordingly, the final Development Charge advice was issued to the petitioner after calculating the applicable charges and fee based on the prevailing rate on 2.4.2012 in the form of revised Development Charge advice, with a specific request to remit the balance amount after deducting the amount paid by the petitioner passed earlier in interim Development Charge advice.

4.7 Guideline value was obtained in letter, dated 18.6.2012, from the Joint I Sub-Registrar, Chennai South, as per which the guideline value for Mount Poonamallee Road, Ayyappathangal Village is Rs. 4,000/- per sq.ft. Based on that, the balance I&A charges and Premium FSI charges at revised guideline value are worked out as Rs. 4,17,15,000/- and Rs. 90,76,75,000/- respectively after adjusting the charges already remitted. Earlier, the applicant had remitted Rs. 8,34,40,000/- and Rs. 44,75,88,000/- towards I&A Charges and Premium FSI charges respectively at the guideline value of Rs. 1,321/- per sq.ft. Hence, revised advice was sent on 22.8.2012 to the petitioner to pay Rs. 4,17,15,000/- towards I&A Charges and Rs. 90,76,75,000/- towards balance Premium FSI charges. The petitioner has to pay the said charges as per the rules in force and as applicable to all developers/promoters of multi storied buildings.

4.8 For want of remittance of the applicable additional charges demanded on the I&A charge, the approval and release of the approved plans are pending with CMDA. As such, the Writ Petition is liable to be dismissed.

5. Second respondent/CMDA also has filed a counter affidavit, stating as under:

5.1 A small strip of land in S. No. 51/1B2 and 51/1C2 belonging to CMWSSB divides the site into two parcels. The petitioner has furnished no objection certificate from CMWSSB to have access to the rear side of their property through the snip of land. Since CMWSSB has issued NOC subject to the condition that they reserve the right to withdraw the permission granted at any time without assigning any reason, they were requested to issue fresh NOC by CMDA vide their letter dated 13.10.2011. The petitioner, in its letter dated 2.3.2012, requested CMDA to issue DC advice stating that CMWSSB, in letter No. CMWSSB/T&T/530/MLD/154/2012, dated 6.2.2012, have accepted, to issue No Objection

Certificate on complying with certain conditions and the petitioner has accepted those conditions in their letter dated 18.2.2012. However, as per the conditions stipulated in the Government Order, the DC advice is issuable to the petitioner only after he furnishes an updated NOC from CMWSSB. The petitioner informed CMDA that they have been pursuing issuance of updated NOC from CMWSSB and that they are expecting the formal NOC from CMWSSB shortly. The petitioner made a specific request to CMDA to issue DC advice as an interim action in order to enable them to access the fund requirement on their part towards payment of the applicable charges and fee in order to make arrangement for mobilization of the fund. Following the request of the petitioner, the demand for DC and other charges was raised in the letter, dated 27.3.2012, of the Member Secretary, CMDA. The I&A charge was calculated at the rate of Rs. 250/- per sq.m. for residential development and at the rate of Rs. 500/- per sq.m. for the club house portion. The premium Floor Space Index charge was calculated for the maximum guideline value of Rs. 1,321/- per sq.ft. The petitioner has remitted all the charges in receipts, dated 29.3.2012.

5.2 While so, the Government, in G.O. Ms. No. 86, Housing and Urban Development (UD4-1) Department, dated 28.3.2012, issued orders based on the decision taken by the Government, enhancing the I&A charges by 50% with effect from the date of issue of order. Accordingly, the I&A charges for residential and commercial multi storied building development are Rs. 375/- per sq.m. and Rs. 750/- per sq.m. respectively. The Government has also revised the guideline values upwardly w.e.f. 1.4.2012 and the revised guideline value for the site of the petitioner is Rs. 4,000/- per sq.ft. CMSWWB, in its letter No. CMWSSB/T&T/530/MLD/154/2012, dated 30.3.2012, has issued revised No Objection Certificate to use its land as access to the rear side of the property, with a condition that the applicant should pay annual rent and the conditions should be included in the sale deeds along with other conditions.

5.3 In the meanwhile, the I&A charges and Guideline Value were revised on 28.3.2012 and 1.4.2012 respectively. The letter of CMWSSB, dated 30.3.2012, was received by the first respondent on 2.4.2012, which was subsequent to the date to the revision of I&A charges and guideline value. Hence, it was decided to revise the Development Charges advice, dated 27.3.2012, and to raise the demand of I&A charges and premium FSI charges at the revised rates. As per the condition stipulated in the order approving the proposal, the Development Charge advice is issuable on receipt of updated No Objection Certificate from CMWSSB. As the petitioner furnished required NOC obtained from CMWSSB only on 2.4.2012, the proposed development attracted levy and collection of the applicable charges and fee as per the rates and procedure that were prevailing on 2.4.2012. Accordingly, the final Development Charge advice was issued to the petitioner after calculating the applicable charges and fee based on the prevailing rate on 2.4.2012 in the form of revised Development Charge advice, with a specific request to remit the balance amount after deducting the amount paid by the petitioner passed earlier in interim Development Charge advice. Guideline

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6. Mr. Sriram Panchu, learned senior counsel appearing for the petitioner, would strenuously contend that Premium FSI Charges are demanded in terms of Rule 36 of the Second Master Plan and G.O. Ms. No. 163, dated 9.9.2009; as per the said G.O., the Premium FSI Charges are calculated and payable on the basis of the guideline value of the area concerned and also the G.O. provided for payment of Premium FSI Charges in one lump sum; on such demand, the petitioner has paid all charges including I&A Charges and Premium FSI Charges as per the above said Government Order; while so, the first respondent issued another Government Order in G.O. Ms. No. 86, dated 28.3.2012, based on which the second respondent demanded the revised rate of amount for I&A Charges and Premium FSI Charges calculating retrospectively, by enhancing the rates contrary to the established principles and rule of law. It is his further contention that once the petitioner made the amount by way of Demand Drafts on 27.3.2012, it is incumbent on the second respondent to process the application, as the petitioner has vested accrued rights from the date of application as per the then Government Order in force. The learned senior counsel, in support of his contentions, relied upon a provision u/s 80 of the Registration Act to the effect that all the fee shall be payable on the presentation of the document and that the guideline value is to be calculated accordingly and, therefore, according to him, the impugned order is vitiated in law. In support of his contention, the learned senior counsel has relied upon a decision of the Supreme Court in *Purbanchal Cables and Conductors Pvt. Ltd. Vs. Assam State Electricity Board and Another*, wherein it is held as under:

40. The phrase "vested right" has been defined by this Court in *Bibi Sayeeda v. State of Bihar* as: (SCC p. 527, para 17)

17. The word "vested" is defined in BLACK'S LAW DICTIONARY (6th Edn.) at p. 1563 as:

Vested; fixed; accrued; settled; absolute; complete. Having the character or

given the rights of absolute ownership; not contingent; not subject to be defeated by a condition precedent.

Rights are "vested" when right to enjoyment, present or prospective, has become property of some particular person or persons as present interest; mere expectancy of future benefits, or contingent interest in property founded on anticipated continuance of existing laws, does not constitute vested rights. In Webster's Comprehensive Dictionary (International Edn.) at p. 1397 "vested" is defined as:

(L)aw held by a tenure subject to no contingency; complete; established by law as a permanent right; vested interests.

41. A statute creating vested rights is a substantive statute. This Court, in Dhenkanal Minor Irrigation Division v. N.C. Budharaj opined: (SCC p.742, para 23)

23...."Substantive law", is that part of the law which creates, defines and regulates rights in contrast to what is called adjective or remedial law which provides the method of enforcing rights. Decisions, including the one in Jena case while adverting to the question of substantive law has chosen to indicate by way of illustration laws such as Sale of Goods Act, 1930 [Section 61(2)], Negotiable Instruments Act, 1881 (Section 80), etc. The provisions of the Interest Act, 1839, which prescribe the general law of interest and become applicable in the absence of any contractual or other statutory provisions specially dealing with the subject, would also answer the description of substantive law.

42. In Thirumalai Chemicals Ltd. v. Union of India this Court comparing substantial law with procedural law, stated: (SCC pp.748-49, paras 23-24)

23. Substantive law refers to a body of rules that creates, defines and regulates rights and liabilities. Right conferred on a party to prefer an appeal against an order is a substantive right conferred by a statute which remains unaffected by subsequent changes in law, unless modified expressly or by necessary implication. Procedural law establishes a mechanism for determining those rights and liabilities and a machinery for enforcing them. Right of appeal being a substantive right always acts prospectively. It is trite law that every statute is prospective unless it is expressly or by necessary implication made to have retrospective operation.

24. Right of appeal may be a substantive right but the procedure for filing the appeal including the period of limitation cannot be called a substantive right, and an aggrieved person cannot claim any vested right claiming that he should be governed by the old provision pertaining to period of limitation. Procedural law is retrospective meaning thereby that it will apply even to acts or transactions under the repealed Act.

44. In Katikara Chintamani Dora v. Guntreddi Annamanaidu this Court held: (SCC

p. 582, para 50)

50. It is well settled that ordinarily, when the substantive law is altered during the pendency of an action, rights of the parties are decided according to law, as it existed when the action was begun unless the new statute shows a clear intention to vary such rights (MAXWELL ON INTERPRETATION OF STATUTES, 12th Edn. 220). That is to say, "in the absence of anything in the Act, to say that it is to have retrospective operation, it cannot be so construed as to have the effect of altering the law applicable to a claim in litigation at the time when the Act is passed".

45. In *Govind Das v. ITO* this Court speaking through P.N. BHAGWATI, J. (as he then was) held:

11. Now it is a well-settled rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability otherwise than as regards matters of procedure. The general rule as stated by HALSBURY in Vol. 36 of the LAWS OF ENGLAND (3rd Edn.) and reiterated in several decisions of this Court as well as English Courts is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or of evidence are prima facie prospective and retrospective operation should not be given to a statute so as to affect, alter or destroy an existing right or create a new liability or obligation unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only.

46. In *Jose Da Costa v. Bascora Sadasiva Sinai Narcornim* this Court held: (SCC p.925, para 31)

31. Before ascertaining the effect of the enactments aforesaid passed by the Central Legislature on pending suits or appeals, it would be appropriate to bear in mind two well-established principles. The first is that "...while provisions of a statute dealing merely with matters of procedure may properly, unless that construction be textually inadmissible, have retrospective effect attributed to them, provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment." (See *Delhi Cloth and General Mills Co. Ltd. v. CIT*, IA p.425.)

The second is that a right of appeal being a substantive right the institution of a suit carries with it the implication that all successive appeals available under the law then in force would be preserved to the parties to the suit throughout the rest of the career of the suit. There are two exceptions to the application of this rule viz. (1) when by competent enactment such right of appeal is taken away expressly or impliedly with retrospective effect and (2) when the Court to which

appeal lay at the commencement of the suit stands abolished (see *Garikapati Veeraya v. N. Subbiah Choudhry and Colonial Sugar Refining Co. Ltd. v. Irving*).

51. There is no doubt about the fact that the Act is a substantive law as vested rights of entitlement to a higher rate of interest in case of delayed payment accrues in favour of the supplier and a corresponding liability is imposed on the buyer. This Court, time and again, has observed that any substantive law shall operate prospectively unless retrospective operation is clearly made out in the language of the statute. Only a procedural or declaratory law operates retrospectively as there is no vested right in procedure.

52. In the absence of any express legislative intendment of the retrospective application of the Act, and by virtue of the fact that the Act creates a new liability of a high rate of interest against the buyer, the Act cannot be construed to have retrospective effect. Since the Act envisages that the supplier has an accrued right to claim a higher rate of interest in terms of the Act, the same can only be said to accrue for sale agreements after the date of commencement of the Act i.e. 23-9-1992 and not any time prior.

7. Conversely, Mr. A. Navaneetha Krishnan, learned Advocate General appearing for the State/first respondent, would contend that the issue of Planning Permission depends upon the compliance and fulfillment of conditions of payment; the acceptance of the authority of the pre-payment of development charges and other charges shall not entitle a person to claim Planning Permission; as per the provisions of the Development Rules and the Government Order in G.O. Ms. No. 86, dated 28.3.2012, the Government has increased the development charges and other charges by 50% with effect from the date of issuance of the order; accordingly, the charges for residential and commercial multi-storied buildings are determined as Rs. 375/- per Sq.mt. and Rs. 750/- per sq.mt. respectively; the Government has also revised the guideline value of the land upwardly w.e.f. 1.4.2012 and that the revised guideline value for the site: of the petitioner is Rs. 4,000/- per sq.ft. It is his further contention that as per the decision of the panel for multi-storied building, the Government has taken a decision and, therefore, the impugned demand does not suffer from any infirmity. He would also submit that grant of licence is neither a mechanical exercise nor a formality; the authority has to satisfy itself about the correctness of the contents of the application and also that the application satisfies all the requirements of the scheme and the other applicable provisions of law and the development rules and, therefore, the petitioner has to comply with the requirements by paying the revised rates as; demanded; then only, the respondent is bound to consider the application of the petitioner and, as such, the impugned Demand Notice is in accordance with law, He would cite the following authorities:

(1) *S.B. International Ltd. and Others Vs. Asstt. Director General of Foreign Trade and Others*,

8. The first question in these appeals is whether a vested right accrued to the appellant for issuance of advance licences as per the value addition norm in vogue on the date of filing of the said applications the moment it made those applications and whether any subsequent change in policy effected before the issuance of licences, is not applicable to such licences. For answering this question, one has to look to the policy itself, the material clauses of which have already been set out. The said provisions make it clear that the object behind the Scheme is to enable the exporter to import raw materials, components etc. required for the purpose of producing goods for export. It is a facility provided by the Government -- an incentive. There is no right to advance licence apart from the policy. No citizen has a fundamental right to import, much less import free of duty. By granting the advance licence, the licensing authority tells the licensee -- "I am permitting you to import raw material, components etc. of a particular value free of duties but you must export goods of a particular value (determined as per value addition norm in vogue on the date of licence) within a particular date. If you fail to do so, you will be liable to levy of penalties and other action according to law." The duty-free import of raw materials etc. is permitted to enable the exporter to sell his goods abroad at a more competitive price, thereby fetching precious foreign exchange for the country. Mere making of an application does not create any right in the applicant since he has no pre-existing right to such licence. His right is only that which is given by the policy, The situation could have been different if the policy had said that a person exporting goods of a particular value shall be entitled to an import licence of a particular value; in such a case, the export of goods can be said to create a right in the applicant to get an import licence of the specified value. Here is a case, where one has to ask for an import licence promising to export goods of a particular value within a particular time. It is difficult to appreciate how can it be said in such a situation that mere filing of an application creates a vested legal right to obtain a licence according to the value addition norm in vogue on the date of the application. It is the date of licence that is relevant and not the date of application therefor. It is obvious that the norm (value addition norm) in vogue on the date of grant of licence shall govern the licence. The mere fact that the authorities have a discretion to take into account the exports made after the date of application for advance licences makes no difference to this position; it is in the nature of yet another concession. What is relevant is that the licence granted under Chapter VII of the policy is an advance licence. It is granted in advance of export--rather to enable the export. The theory of a vested right accruing to the applicant to get a licence as per the norms in force on the date of application is inconceivable in such a situation--unless, of course, the policy itself says so.

9. It should be noticed that grant of licence is neither a mechanical exercise nor a formality. On receipt of the application, the authorities have to satisfy themselves about the correctness of the contents of the application. They also have to satisfy themselves that the application satisfies all the requirements of the scheme and the other applicable provisions of law, if any. In a country like

ours, where abuse of such facilities is rampant, reasonable time has to be afforded to the authorities to process the application. (What is a reasonable time, of course, depends on the facts of each case. No hard and fast limit can be prescribed.) It is only after appropriate verification that the licence is granted.

13. Shri A. Subba Rao, learned counsel for the Union of India, brought to our notice certain decisions to which a brief reference would be in order. In *Dy. Asstt. Iron and Steel Controller v. L. Manickchand, Proprietor, Katrella Metal Corpn.* the respondent applied for an import licence in December 1968 for importing stainless steel for the licensing period 1968-69. His registration certificate showed that he was engaged in the manufacture of hospital and surgical instruments and household utensils of stainless steel. In view of the large number of applications for import licences for stainless steel, instructions were issued in January 1969 that applications should be scrutinised carefully after asking for relevant information from the applicants as to the details of end products to be manufactured by them. The respondent supplied information in May 1969 that the hospital requisites proposed to be manufactured by him were surgical bowls, spittoons and trays. The Chief Controller, Exports and Imports, however, issued instructions that only "medical and surgical equipment and appliances" should have priority and not other types of hospital equipment, such as bowls, trays, jugs, etc. In April 1970, the Chief Controller issued instructions to consider the respondent's application in terms of the Licensing Policy of 1970-71. The respondent thereupon filed a writ petition in the High Court contending that his application having been filed when the 1968-69 Import Policy was in vogue should be considered in accordance with that Import Policy alone and not in the light of or under the Import Licensing Policy in vogue in 1970-71. The High Court allowed the writ petition but was reversed by this Court on appeal. This Court held:

... no case has been made out on the present record for a mandamus to the department to consider the respondent's application for import licence in terms of 1968-69 policy. It is not possible on the existing material to conclude that the department is guilty of any undue laches or delay in dealing with the respondent's application which would justify the Court in granting the mandamus prayed for.

It was also held, that keeping the respondent's application pending until completion of its examination in the light of policy in vogue cannot be said to be unreasonable nor can the time taken in that behalf be characterised as undue delay. Above all, it was held, while emphasising the necessity of disposing of such applications with due expedition, that:

... an applicant has no absolute vested right to an import licence in terms of the policy in force at the time of his application because from the very nature of things at the time of granting the licence the authority concerned may often be in a better position to have a clearer overall picture of the various factors having an important impact on the final decision of the allotment of import quota to the

various applicants.

This decision rendered by a Bench of four learned Judges of this Court clearly negatives the contention of a vested right urged by Shri Kapoor.

14. The proposition in *Manickchand* was reiterated by a Constitution Bench in *Andhra Industrial Works v. Chief Controller of Exports*. While observing that the Import Control Policy statement contained in what was known as "Red Book" was not statutory, the Court observed:

No person can merely on the basis of such a Statement claim a right to the grant of an import licence, enforceable at law. Moreover, such a policy can be changed, rescinded or altered by mere administrative orders or executive instructions issued at any time.

The Court held further:

From the counter-affidavit filed on behalf of the respondents, it is clear that the Import Trade Control Policy (Red Book -- Vol. I) had been amended and the import of the materials in question for utilization in the end products of most "automobile parts" was prohibited as per instructions conveyed by Chief Controller of Imports and Exports in his letter No. IPC (Gen. 33)/73/72/3499, dated 29.9.1972, although general notice of this amendment was published later on 18-8-1973 (Vide Annexure R-5). The result was that in accordance with the amended Import Trade Control Policy, the respondent could not, in November 1972, grant the licences applied for to the petitioners in respect of the past period, April 1969-March 1970.

(2) *State of Tamil Nadu Vs. Hind Stone and Others*,

12. The next question for consideration is whether Rule 8-C is attracted when applications for renewal of leases are dealt with. The argument was that Rule 9 itself laid down the criteria for grant of renewal of leases and therefore Rule 8-C should be confined, in its application, to grant of leases in the first instance. We are unable to see the force of the submission. Rule 9 makes it clear that a renewal is not to be obtained automatically, for the mere asking. The applicant for the renewal has, particularly, to satisfy the government that the renewal is in the interests of mineral development and that the lease amount is reasonable in the circumstances of the case. These conditions have to be fulfilled in addition to whatever criteria is applicable at the time of the grant of lease in the first instance, suitably adapted, of course, to grant of renewal. Not to apply the criteria applicable in the first instance may lead to absurd results. If as a result of experience gained after watching the performance of private entrepreneurs in the mining of minor minerals it is decided to stop grant of leases in the private sector in the interest of conservation of the particular mineral resource, attainment of the object sought will be frustrated if renewal is to be granted to private entrepreneurs without regard to the changed outlook. In fact, some of the applicants for renewal of leases may themselves be the persons who are

responsible for the changed outlook. To renew leases in favour of such persons would make the making of Rule 8-C a mere exercise in futility. It must be remembered that an application for the renewal of a lease is, in essence an application for the grant of a lease for a fresh period. We are, therefore, of the view that Rule 8-C is attracted in considering applications for renewal of leases also.

13. Another submission of the learned counsel in connection with the consideration of applications for renewal was that applications made sixty days or more before the date of GO Ms No. 1312 (2.12.1977) should be dealt with as if Rule 8-C had not come into force. It was also contended that even applications for grant of leases made long before the date of GO Ms. No. 1312 should be dealt with as if Rule 8-C had not come into force. The submission was that it was not open to the government to keep applications for the grant of leases and applications for renewal pending for a long time and then to reject them on the basis of Rule 8-C notwithstanding the fact that the applications had been made long prior to the date on which Rule 8-C came into force. While it is true that such applications should be dealt with within a reasonable time, it cannot on that account be said that the right to have an application disposed of in a reasonable time clothes an applicant for a lease with a right to have the application disposed of on the basis of the rules in force at the time of the making of the application. No one has a vested right to the grant or renewal of a lease and none can claim a vested right to have an application for the grant or renewal of a lease dealt with in a particular way, by applying particular provisions. In the absence of any vested rights in anyone, an application for a lease has necessarily to be dealt with according to the rules in force on the date of the disposal of the application despite the fact that there is a long delay since the making of the application. We are, therefore, unable to accept the submission of the learned counsel that applications for the grant or renewal of leases made long prior to the date of GO Ms No. 1312 should be dealt with as if Rule 8-C did not exist.

8. I have heard the learned counsel for the parties and also perused the records.

9. On going through the records, what transpires is that the petitioner is a public limited company registered under the Companies Act, 1956, having its offices at Bangalore and Chennai. It is engaged in the business of real estate development across India and in the course of its business entered into a Joint Development Agreement, dated 15.7.2010, with the owner of the said land viz., Extra IT Parks Private Limited, on an area sharing basis, with respect to lands situated at Mount Poonamallee High Road, Ayyappathangal Village, Chennai. Pursuant thereto, the owner of the land executed a General Power of Attorney, dated 15.7.2010, registered as Document No. 1285/2010, in the Office of the Sub-Registrar-1, Chennai South, whereby the petitioner was empowered to develop the property by constructing residential apartments upon obtaining required planning permission and no-objection certificates from various authorities to develop the property.

10. On 22.3.2011, the petitioner made an application to the second respondent for grant of Planning Permission for construction of 33 multi-storied buildings of residential apartments on the property. The petitioner also sought No Objection Certificates from various departments, such as, Airports Authority of India, Fire & Rescue Services Department, Police Department etc., for construction of the aforesaid 33 blocks on the property and the said authorities have given NOCs on various dates to the proposed development on the property, subject to certain conditions stipulated therein. Pursuant thereto, on 5.1.2012, the first respondent accepted the recommendation of the Multi-storied Building Panel and accorded its approval for construction of multi-storied buildings on the property by Letter (Ms) No. 9, dated 5.1.2012, addressed to second respondent, on the condition that the petitioner gifts a portion of its land for road widening and Open Space Reservation (OSR) portion. The petitioner was also required to obtain NOC from Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB) for using its land in S. Nos. 51/1B2 and 1C2 for access to the property. The aforesaid conditions were satisfied by the petitioner by obtaining NOC, dated 30.3.2012, from CMWSSB for using its land for access to the property and by executing two Gift Deeds, both dated 27.4.2012, in favour of the second respondent, gifting portions of the property for road widening and OSR purposes. Possession of the gifted portion of the property was taken over by the second respondent on 24.5.2012.

11. On satisfying the above requirements for Planning Permission, the petitioner made an application to the authorities and, upon receipt of the same, the second respondent issued the Original Demand Notice, dated 27.3.2012, demanding payment of various charges to be paid for issuance of Planning Permission for construction of 33 multi-storied buildings on the property. By the Original Demand Notice, the second respondent called upon the petitioner to pay a sum of Rs. 58,90,38,000/- under various heads, including a sum of Rs. 8,34,40,000/- towards infrastructure and amenities charges (I&A Charges) and a sum of Rs. 44,75,88,000/- towards Premium FSI charges for 78,690.55 sq.mtrs. Premium FSI Charges are demanded by the second respondent in terms of Rule 36 of the Second Master Plan and also G.O. Ms. No. 163, dated 9.9.2009. The rates of I&A Charges and Premium FSI Charges are calculated and collected on the basis of G.O. Ms. Nos. 161 and 163, both dated 9.9.2009, in one lump sum.

12. As per the Original Demand Notice, the petitioner had to pay the aforesaid amount within one month from the date of receipt of the notice. If the amount was not paid within one month, interest of 12% per annum would be imposed on the amounts demanded from the date of issuance of the Original Demand Notice up to the date of payment. It was further provided therein that if the payment was not made within 60 days from the date of issue of the Original Demand Notice, the papers would be returned to the petitioner unapproved. Accordingly, the petitioner, on 29.3.2012, vide four demand drafts, duly paid the amounts demanded under the Original Demand Notice, dated 27.3.2012, and four receipts were issued by the second respondent under various heads, in token thereof.

Significantly, Receipt No. 5480, dated 29.3.2012, for an amount of Rs. 8,34,40,000 was issued by the second respondent for I&A Charges and Receipt No. 5481, dated 29.3.2012, was issued by the second respondent for an amount of Rs. 44,75,88,000/-towards premium FSI charges.

13. Upon satisfying the payment conditions stipulated under the Original Demand Notice, dated 27.3.2012, the petitioner, vide its letter, dated 30.3.2012, requested the second respondent to issue the Planning Permission. However, the second respondent, instead of issuing Planning Permission, issued another demand notice viz., impugned Demand Notice, dated 22.8.2012, demanding payment of Rs. 4,17,15,000/- towards I&A Charges and Rs. 90,76,75,000/- towards balance Premium FSI charges, notwithstanding that the petitioner had already paid Rs. 53,10,28,000/- on 29.3.2012. The said demand was made based on the revised rate of Premium FSI Charges on account of revision to the guideline value of land which came into effect from 1.4.2012 and the increase in the I&A Charges vide G.O. Ms. No. 86, dated 28.3.2012.

14. The petitioner has challenged the above demand on the ground that as per the Original Demand Notice, he has already paid the amount and, therefore, the impugned demand notice of the second respondent demanding revised rates is illegal, contrary to the Tamil Nadu Town and Country Planning Act and the Development Control Regulations and also the Government Orders.

15. As a matter of fact, the petitioner has paid the amount as per the Original Demand Notice, dated 27.3.2012, and in accordance with G.O. Ms. Nos. 161 (I&A Charges) and 163 (Premium FSI Charges), both dated 9.9.2009, and the said payment was unconditionally received by the second respondent towards the above charges. In the given position, in my considered opinion, the respondents are virtually estopped from demanding once again the amount towards the same heads from the petitioner.

16. In this regard, the stand of the respondents is that application for Planning Permission for construction of the above project was made by the petitioner and a small strip of land in S. No. 51/1B2 and 51/1C2 belonging to CMWSSB divides the site into two parcels. The petitioner has furnished NOC from CMWSSB to have access to the rear side of their property through the said strip of land. CMWSSB has issued NOC subject to the condition that they reserve the right to withdraw the permission granted at any time without assigning any reason. Therefore, they were requested to issue fresh NOC by CMDA vide their letter dated 13.10.2011. The matter was placed before the 197th Multi Storied Building Panel meeting held on 18.11.2011, wherein the Panel recommended to forward the proposal to the Government, recommending for approval after fresh NOC from CMWSSB for using their land in S. No. 51/1B2 and 1C2 as access to the rear side of the proposal is furnished. Thereafter, in the subsequent meeting held on 5.12.2011, the Committee decided to modify the earlier condition of forwarding the proposal to the Government to the effect that the petitioner should submit the NOC from CMWSSB before the issue of Development Charges

Advice. Hence, obtaining and furnishing NOC from CMWSSB on the part of the petitioner is a pre-condition for issue of Development Charges Advice.

17. Based on the recommendations of the Panel, the Government, in its letter vide G.O. Ms. No. 9 Housing and Urban Development Department (UD. 1) Department, dated 5.1.2012, had accorded approval for the construction, subject to the conditions that CMDA should ensure that the petitioner gifts the road widening portions marked in the plan to CMDA along with OSR spaces before issue of planning permission and that the petitioner should furnish NOC from CMWSSB for using their land in S. Nos. 51/1B2 and 1C2 for access before issue of Development Charges advice.

18. In that context, the petitioner, by its letter, dated 2.3.2012, requested CMDA to issue DC advice as an interim measure in order to enable them to access the fund requirement towards payment of the applicable charges and fee and to make arrangement for mobilization of the fund. Based on the request of the petitioner, the demand for DC and other charges was raised in the letter, dated 27.3.2012, of the Member Secretary, CMDA. The I&A charge was calculated at the rate of Rs. 250/- per sq.m. for residential development and Rs. 500/- per sq.m. for the club house portion. The premium FSI Charge was calculated for the maximum guideline value of Rs. 1,321/- per sq.ft. The petitioner has remitted all the charges in receipts, dated 29.3.2012, which is not disputed.

19. However, the Government, in G.O. Ms. No. 86, Housing and Urban Development (UD4-1) Department, dated 28.3.2012, issued orders based on the decision taken by the Government, enhancing the I&A charges by 50% with effect from the date of issue of order. Accordingly, the I&A charges for residential and commercial multi storied building development are fixed at Rs. 375/- per sq.m. and Rs. 750/- per sq.m. respectively. The Government has also revised the guideline value of the land upwardly with effect from 1.4.2012 and the revised guideline value for the site of the petitioner is Rs. 4,000/- per sq.ft.

20. CMSWWB, in its letter No. CMWSSB/T&T/530/MLD/154/2012, dated 30.3.2012, has issued revised. NOC to use its land as access to the rear side of the property, with a condition that the petitioner should pay annual rent, but the said NOC was received by CMDA on 2.4.2012, which was subsequent to the date of revision of I&A charges, Premium FSI Charges and guideline value. Hence, the second respondent decided to revise the Development Charges advice, dated 27.3.2012, and to raise the demand of I&A charges and premium FSI charges at the revised rates and, accordingly, he proceeded to make the impugned demand.

21. In the light of the above stated position, what is to be examined is, whether the impugned demand made by the second respondent vide the revised impugned Demand Notice, dated 22.8.2012, following G.O. Ms. No. 86, dated 28.3.2012, for issuance of Planning Permission for the proposed construction of the petitioner is in accordance with law and justified?

22. To examine the above question, it is relevant to mention the following

statutory provisions:

22.1. Section 59 of the Tamil Nadu Town and Country Planning Act:

59. Levy of development charges.- (1) Subject to the provisions of this Act and the rules made thereunder every planning authority including a local authority where such local authority is the planning authority, shall levy charges (hereinafter called the development charges) on the institution of use or change of use of land or building or development of any land or building for which permission is required under this Act in the whole area or any part of the planning area within the maximum rates specified in Section 60.

Provided that the rates of development charges may be different for different parts of the planning area and for different uses:

Provided further that the previous sanction of the Government has been obtained for the rates of levy.

(2) When a planning authority including a local authority where such local authority is the planning authority shall have determined to levy development charges for the first time or at a new rate, such authority shall forthwith publish a notification in the Tamil Nadu Gazette specifying the rates of levy of development charges.

(3) The development charges shall be leviable on any person who undertakes or carries out any such development or institutes or changes any such use.

(4) Notwithstanding anything contained in sub-sections (1) and (2), no development charges shall be levied on development, or institution of use or of change of use of, any land or building vested in or under the control or possession of the Central or any State Government or of any local authority.

22.2 Rule 36 of Development Regulations:

36. Premium FSI:

The Authority may allow premium FSI over and above the normally allowable FSI, in any case not exceeding 0.5 for special buildings and group developments, and not exceeding 1.00 for multi-storeyed buildings in specific areas which may be notified, on collection of a charge at the rates as may be prescribed with the approval of the Government. The amount collected shall be kept in an escrow account for utilising it for infrastructure development in that area as may be decided by the Government.

23. It is not in dispute that the petitioner has made an application to the second respondent for Planning Permission on 22.3.2011 and the petitioner has also accepted all the requirements to be fulfilled as per the conditions imposed thereto. It is also not debated that Original Demand Notice of the second respondent was issued based on G.O. Ms. Nos. 161 for I&A Charges and 163 for Premium FSI Charges, both dated 9.9.2009, and the respondent has calculated

the amount for all the items, such as, Development Charge for land and building u/s 59 of the Town and Country Planning Act, Balance Scrutiny Fee, Regularisation Charge for unauthorised sub-division and amalgamation, Security Deposit for building, Security Deposit for Display Board, Security Deposit for STP, Infrastructure and Amenities Charges and Premium FSI Charges for 78,690.55 sq.mtrs., demanding payment of Rs. 53,10,28,000/-, which amount has been already paid by the petitioner on 28.3.2012. This is an admitted fact.

24. Significantly and interestingly, in this case, the date of application of the petitioner was 22.3.2011 and the date of Original Demand Notice was 27.3.2012, which are as per the earlier Government Orders in G.O. Ms. Nos. 161 and 163, both dated 9.9.2009. However, the second respondent revised the rates of charges based on G.O. Ms. No. 86, dated 28.3.2012, with only prospective effect. It is no doubt, the respondent has wisely taken a decision to give prospective application of the said G.O., as it is a cardinal principle that any delegated legislation be given effect only from the date on which it has been entailed or thereafter prospectively. But, the only complexity involved in this case is as to what is the governing law for the application of the petitioner, dated 22.3.2011, and the Original Demand Notice, dated 27.3.2012, based on which the assessment was made for all the charges. Soon after receipt of the said ODN, the petitioner, having accepted, paid the entire amount on 29.3.2012 itself and accomplished his duty, though, by the ODN, the petitioner was given time of 30 days for payment of the same without interest. While that being the clear position, where does the question of applicability of new G.O.86, dated 28.3.2012, to the case of the petitioner arise. It is preposterous for the second respondent to apply the new law to the case of the petitioner. This Court does not say that G.O.86 is invalid. What all it says is, that, the said law is applicable to the entities on whom the Original Demand is made on or after 28.3.2012, but not before that. In other words, the application of the petitioner and the demand for payment were much prior to the commencement of new G.O.86 and, therefore, the governing law is the date of application and date of demand for payment. So, it is immaterial as to when the payment was made, especially in view of the fact that the petitioner has made the payment well within time. Had he not paid the amount within the time stipulated in the ODN thereby violating the conditions and the papers were returned for non-payment of the demanded amount, the situation would have been different, which would definitely attract the new law. It is not the case here. Though the payment was made by the petitioner after issuance of new G.O., it must be construed as absolute compliance of the ODN and, hence, by no stretch of imagination, the new law can be attracted thereto.

25. The respondents took a plea that the amount so demanded was subject to production of NOC from CMWSSB. It is seen that there was production of NOC by the petitioner from CMWSSB. In spite of that, all-of-a-sudden, the second respondent requested for a fresh NOC from CMWSSB. But, fresh NOC was issued by the Board only on 30.3.2012, which was received by the second respondent

on 2.4.2012. Therefore, the stand of the second respondent is that payment and NOC issued are subsequent to issuance of new G.O. and, hence, the petitioner is liable to pay the revised demand for issuance of Planning Permission.

26. Law is well settled that accrued rights cannot be taken away by subsequent amendment/orders of the authorities. A person can claim certain rights on the date of his application. In this case, the said application is processed and assessment made prior to the commencement of new G.O.86. enhancing the charges, thereby the petitioner has been vested with accrued right for its claim as on the date of application. Therefore, the rates as on the date of application or even the date of original demand is relevant for consideration. On the contrary, it cannot be contended that accrued rights can be taken away by subsequent orders in G.O.86 and revised rates can be collected from the petitioner.

27. Keeping the above legal principle in mind, it is to be asserted that G.O. Ms. No. 86, dated 28.3.2012, would have prospective effect only from 28.3.2012 and. not to the proceedings issued prior to that, which, if implemented ex post facto, will be retrospective and cannot be sustained. The right accrued by the petitioner was prior to 28.3.2012 and, as such, it is to be construed that the governing rule on the date of application is material for the claim of the petitioner and the decision taken thereon by the authorities, dated 27.3.2012. Therefore, the contention of the respondents that the amount has been paid by the petitioner only after 28.3.2012 and hence, the revised rates as per G.O.86 only are applicable is to be dispelled. In other words, the vested right and benefit accrued to the petitioner as on the date of application and. the then prevailing market and guideline values alone would be the basis for the claim and any subsequent change would not affect the claim of the petitioner. The doctrinal principles in this regard ruled by the Supreme Court and also this Court are very clear that vested rights cannot be taken away by subsequent orders or any amendment made thereto.

28. When the petitioner had already furnished NOC from CMWSSB to the second respondent on 11.1.2008, it is not known to this Court as to why, again, the second respondent sought for a fresh NOC from the very same CMWSSB, which act of the second respondent, in the absence of any change of circumstances, is to be deprecated. The said demand for another NOC, in the opinion of this Court, was only to deprive the petitioner of the benefits of the G.Os. then in existence. To put it otherwise, the attitude of the second respondent in demanding another NOC, mentioning certain dates and events, was on a logical reasoning, which would only mean that it was with an ulterior motive in order to strip off the benefits of the G.Os. in force. Though the second respondent has given a reason that they reserve every right to withdraw the permission granted at any time without assigning any reason, that was not the substantive reason, which warranted to seek fresh NOC, especially when there was no change of circumstances. Therefore, the action of the second respondent is tainted with arbitrariness and mala fide intention, thereby attracting Article 14 of the

Constitution of India.

29. Following the above principles and considering peculiarity of circumstances involved in this case, it is to be stated that the governing law as on the date of application, scrutiny, demand for payment of amount and conclusion of the sanction process is material and, therefore, the Original Demand Notice, which was issued pursuant to all the said factors, is relevant to the claim of the petitioner, but not as per the impugned demand, which is in accordance with the changed government orders and the decision taken thereon. Hence, the law as on the date of completion of the process would be a factor to be reckoned with, but not thereafter.

30. The decision relied on by the learned senior counsel in *Purbanchal Cables & Conductors (P) Ltd. v. Assam SEB (supra)* is the one wherein the only principle reiterated was that every statute is prospective unless it is expressly or by necessary implication made to have retrospective operation. In the present case, a vested right is accrued on the petitioner, as stated above, and such a right cannot be taken away by enforcing the new law against the petitioner. Coming to the authorities cited by the respondents, though they are to some extent relevant, in view of the peculiar facts and circumstances of this case, they are not applicable hereto.

31. For all the above reasons, the impugned proceedings of the second respondent, dated 28.2.2012, are vitiated by law and set aside. Hence, the second respondent is directed to process the application of the petitioner for Planning Permission as per the Original Demand Notice, dated 27.3.2012, and pass appropriate orders thereon, thereby releasing the approved drawings to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Writ Petitions are allowed. No costs. Consequently, the connected M.P. Nos. 1 of 2012 are closed.