

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.2173 OF 2015
&MP.No.1 and 2 of 2015

Mrs.Sudha K.Punjhabi

.. Petitioner

Versus

1. The Divisional Engineer (N) (KM)
Chennai Corporation Road Division
Highways Department,
Saidapet,
Chennai - 600 015.

2. The Executive Engineer,
Corporation of Chennai
Zone - XV
Sozhanganallur,
Chennai - 600 119.

... Respondents

* * *

PRAYER: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing to call for the records of the 2nd respondent pertaining to the impugned order bearing No.M.A.15 N.K.N.E., 15/06664/2013 dated 28.06.2013 issued to the 1st respondent and quash the same as illegal, arbitrary and unconstitutional and consequently direct the 1st respondent to issue planning permit to the petitioner without insisting upon the Gift Deed for the property at Survey No.204/2B/3F(Part) and 204/3G(part) at Akkarai Village, Shollinganallur Taluk.

For Petitioner : Dr.P. Vasudevan

For Respondents: Mr. S.Gunasekaran (GA) for R1
Mr.P.V.Selvakumar for R2

O R D E R

1. The petitioner seeks for issuance of a writ of Mandamus with a direction to quash the order bearing No.M.A.15, N.K.N.E., 15/0664/2013 dated 28.06.2013 by which the 2nd respondent has refused to consider the petitioner's application for planning permission on the ground that the petitioner shall executes a Gift Deed in respect

of the extent of land measuring 28.73 x 4.50 mtrs in Survey No.204/2B/2F(Part) and 204/2B/3G(Part) at Akkarai Village, Shollinganallur Taluk proposed to be required for road widening.

2. Heard Dr.P.Vasudevan, learned counsel for the petitioner and Mr.S.Gunasekaran, learned Government Advocate appearing for the first respondents and Mr.P.V.Selvakumar, learned counsel for the second respondent.

3. There is no dispute that the petitioner is the owner of the property. The petitioner has sought for planning permission to put up construction on the said property. A portion of the land measuring 28.73 x 4.50 mtrs., in the said Survey Number, is likely to be acquired for the purpose of road widening. Therefore, the planning authority are insisting the petitioner to execute a gift deed in respect of that area. It is submitted by the learned counsel for the petitioner that as on date there is no notification to acquire the said land and no such proceeding have been initiated. In such circumstances it is to be seen as to whether the petitioner can be compelled the execute the Gift Deed.

4. This court under similar circumstances in W.P.2567 of 2015 dated 03.02.2015, disposed of the writ petition, directing the petitioner to submit an affidavit of undertaking not to put up any construction on the area proposed to be acquired by the respondents. Furthermore, the petitioner shall also undertake that he will not resist the proposal of road widening and hand over the said portion to the appropriate authority for the said purpose. The petitioner will however be entitled to compensation for the land to be acquired.

5. In the light of the above, the writ petition is disposed of directing the petitioner to submit an affidavit of undertaking not to put up any construction on the proposed extent of land measuring 28.73 x 4.50 mtrs in Survey No.204/2B/2F(Part) and 204/2B/3G(Part) at Akkarai Village, Shollinganallur Taluk and keeping the area clear and also undertake to surrender the portion for implementation of road widening without prejudice to the petitioner's right to claim compensation. If such affidavit is filed, the respondents shall consider the same and process the application in accordance with the statutory provisions. No costs. Consequently, connected Miscellaneous Petition is also closed.

prm/nvi

-s/d-

Assistant Registrar()

True Copy

Sub-Assistant Registrar

To

1. The Divisional Engineer (N) (KM)
Chennai Corporation Road Division
Highways Department,
Saidapet,
Chennai - 600 015.

2. The Executive Engineer,
Corporation of Chennai
Zone - XV
Sozhanganallur,
Chennai - 600 119.

+ 1 cc to the Government Pleader, High Court, Madras SR 8788

+ 1 cc to Dr.P.Vasudevan, Advocate SR 8687

rj(co)
prk16/4



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