

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.2567/2015 & MP.No.1/2015

1. B.Kanakaraj

2. Padma

W/o. Kanakaraj

Petitioners

Vs.

1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

2.The Executive Engineer,
Corporation of Chennai,
Zonal Office-V, Chennai.

3.The Assistant Executive Engineer,
Division No.52, Zonal Office-V,
Corporation of Chennai,, Chennai.3

4.The Member Secretary
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 08.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1st to 3rd to forthwith issue the Planning Permission to the Premises at Door No.185, Mannarswamy Koil Street, Royapuram, Chennai-13, without insisting to handover the area to the extent of 5.85 meters facing the road through a registered gift deed to CMDA or the Corporation of Chennai.

For Petitioner : Mr.L.Chandrakumar

For RR 1 to 3 : Mr.P.V.Selvakumar

For R4 : Mr.A.Kumar

O R D E R

Heard Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.P.V.Selvakumar , learned counsel appearing for the respondents 1 to 3 as well as Mr.A.Kumar, learned counsel for the fourth respondent. With consent of either side, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner seeks for issuance of a writ of Mandamus to direct the respondents 1 and 3 to forthwith issue the Planning Permission to the Premises Door No.85, Mannarswamy Koil Street, Royapuram, chennai-13, without insisting to handover the area to the extent of 5.85 meters facing the road through a registered gift deed to CMDA or the Corporation of Chennai.

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 5.85 meters is likely to be acquired for the purpose of road widening. Therefore, the planning authority are insisting the petitioner to give gift deed .

4.The land in question which is owned by the petitioner has not been acquired so far, however there is no proposal for widening the road now, however there is every likelihood for widening the road. In my view, portion of the land measuring 5.85 meters will be acquired, however in the meantime, if the petitioner should not put up construction would prejudice the petitioner. It is seen under similar circumstances in W.P.1259 of 2014, this Court taking into consideration of the earlier order in W.P.No.8541 of 2012 dated 19.07.2012 issued an interim direction subject to the condition that petitioner should give an affidavit of undertaking to the effect that he will not put up any construction in the place earmarked for the purpose of road widening and on receipt of the said undertaking, CMDA and Corporation of Chennai shall give approval for building plan permission with proper endorsement. Though the said direction is an interim order, there will be a direction in this writ petition that the petitioner shall undertake not to put up construction in the extent of land which is proposed to road widening. 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 eastern side of his property to the extent of 5.85 mters 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.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

AP

To

- 1.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.
- 2.The Executive Engineer,
Corporation of Chennai,
Zonal Office-V, Chennai.
- 3.The Assistant Executive Engineer,
Division No.52, Zonal Office-V,
Corporation of Chennai,, Chennai.
- 4.The Member Secretary
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008

1 cc to Mr.L. Chandrakumar, Advocate, Sr. 5519

W.P. No.2567/2015

BR (CO)

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