

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/11/2015

C O R AM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.36008 of 2015

1. Mr.Mangalchand
2. Mrs.M.Chandrabai
3. Mr.Vikash

...Petitioner

Vs

1. The Commissioner
Corporation of Chennai
Rippon Building
Chennai 600 003.
2. The Assistant Engineer/
Assistant Executive Engineer
Town Planning Approval Section
Regional Office North
Corporation of Chennai
No.105 Basin Bridge Road
Royapuram
Chennai 600 079.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the order passed by the second respondent in his proceedings W.D.C.No.T.P.PPA/WDCNo4/04927/2015 dated 5/10/2015 and quash the same and direct the respondents to consider on merits the building plan application No.PPA/WDCNO4/04927/2015 dated 6/8/2015 earlier submitted.

For petitioner ... Mr.A.K.Raghavulu
For respondents ... Mr.P.V.Selvakumar

O R D E R

With the consent of the learned counsel appearing for the parties, this writ petition is taken up for final disposal.

2. Heard Mr.A.K.Raghavulu learned counsel for the petitioner and Mr.P.V.Selvakumar for the respondents.

3. This writ petition has been filed praying to call for the records relating to the order passed by the second respondent in his proceedings W.D.C.No.T.P.PPA/WDCNo4/04927/2015 dated 5/10/2015 and quash the same and direct the respondents to consider on merits the building plan application No.PPA/WDCNO4/04927/2015 dated 6/8/2015.

4. The petitioner, has filed this writ petition, challenging the proceedings of the second respondent dated 5/10/2015, refusing to consider the petitioner's application for planning permission, on the ground that the petitioner has not complied with the condition imposed by the respondent vide their letter dated 9/9/2015. By the said communication dated 9/9/2015, the petitioner was directed to produce a gift deed for the road widening portion. The said remark has been made on the petitioner's planning permission application, based on a regulation framed by the respondents wherein the land owner would be entitled to a TDR which is a transferable equivalent to the extent of land which has been gifted to the respondent Corporation.

5. The very regulation under which this has been insisted upon is the subject matter of challenge before the Honourable First Bench of this Court and the interim orders have also been granted.

6. In another set of cases, this Court has disposed of the writ petitions, by directing the petitioner/land owner, to file an affidavit of undertaking to keep the area, which is required for the future road widening, free from any construction and maintain it as a vacant area with an undertaking to surrender the land, as and when the road widening project is taken up for implementation. Based on such undertaking, a direction was issued to the Corporation of Chennai to consider the planning permission to grant the same, if the applicant compliances with the other conditions.

7. The aforestated condition can be imposed on the case of the petitioner also. More particularly, considering the fact that the area owned by the petitioner is only an extent of 2,450 Sq.feet and the petitioner proposes to demolish the old dilapidated house standing thereon and put up the new construction.

8. Accordingly, the writ petition is disposed of, by directing the petitioner to give an undertaking to the satisfaction of the second respondent, agreeing to keep the area of land abutting the road, which would be required for road widening, free from any construction and also an undertaking to surrender the land to the Corporation of

Chennai, as and when the road widening object is implemented. If such an undertaking is given in a non-judicial stamp paper, to the satisfaction of the second respondent, the second respondent shall consider the petitioner's planning permission application and pass appropriate orders on merits and in accordance with law, within a period of four weeks, from the date on which the undertaking is furnished by the petitioner. No costs.

Sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mvs.

To

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Regional Office North
Corporation of Chennai
No.105 Basin Bridge Road
Royapuram , Chennai 600 079.

+1 CC to MR.A.K.Raghavulu Advocate. SR.NO. 64072
+1 CC to MR.P.V.Selvakumar Advocate. SR.NO. 63969

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CO-MG
JD 07/12/2015