

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.5790 OF 2015

1. R.Rangarajan
2. K.Chandran

.. Petitioners

Versus

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 3.
2. The Executive Engineer,
Corporation of Chennai,
Zonal Office-X, Chennai.
3. The Assistant Executive Engineer,
Division No.135, Zonal Office No.X,
Corporation of Chennai,
No.36G, Pulla Avenue,
Chennai - 40.
4. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

.. Respondents

* * *

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents 1 to 3 to forthwith issue the Planning Permission to the premises at Door No.192, Lake View Road, Block No.42, West Mambalam, Chennai - 33, without insisting to handover the area or as per requisite facing the road through a registered Gift Deed to CMDA or the Corporation of Chennai.

* * *

For Petitioners	:	Mr.L.Chandrakumar
For Respondents	:	Mr.P.V.Selvakumar, Standing Counsel for RR 1 to 3 Mr.M.Karthikeyan Standing Counsel for R4

O R D E R

Heard Mr.L.Chadrakumar, learned counsel appearing for the petitioners, Mr.P.V.Selvakumar, learned Standing Counsel, who accepts notice for the respondents 1 to 3 and Mr.M.Karthikeyan, learned Standing Counsel, who accepts notice for the fourth respondent.

2. With the consent of either side, the writ petition is taken up for final disposal.

3. The petitioners seek for a direction upon the respondents 1 to 3 to forthwith issue the Planning Permission to the premises at Door No.192, Lake View Road, Block No.42, West Mambalam, Chennai - 33, without insisting to handover the area facing the road through a registered Gift Deed to CMDA or the Corporation of Chennai as a pre-requisite.

4. There is no dispute that the petitioners are the joint owners of the property. The petitioners have 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 petitioners to give a gift deed.

5. The land in question which is jointly owned by the petitioners has not been acquired so far and there is only a proposal for widening the road. However, the respondents state that there is a proposal for widening the road and it is submitted that a portion of the land measuring 5.85 meters will be acquired.

6. It is seen that under similar circumstances in W.P.No.1259 of 2014, this Court, taking into consideration an earlier order in W.P.No.8541 of 2012 dated 19.07.2012, issued an interim direction subject to the condition that the petitioner therein 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, the CMDA and the 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, to the petitioners to undertake not to put up construction in the extent of land which is proposed for road widening. Furthermore, the petitioners shall also undertake that they will not resist the proposal of road widening and hand over the said portion to the appropriate authority for the said purpose. The petitioners will, however, be entitled to compensation for the land to be acquired.

7. In the light of the above, the writ petition is disposed of directing the petitioners to submit an affidavit of undertaking not to put up any construction in the portion earmarked for road

widening on their property to the extent of 5.85 meters and keeping the area clear and also undertake to surrender the portion for implementation of road widening work without prejudice to the petitioners' right to claim compensation. If such an 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 closed.

Sd/-
Assistant Registrar
Dated:16.3.15

True Copy

Sub Assistant Registrar

To

1. The Commissioner,
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Rippon Buildings,
Chennai - 3.
2. The Executive Engineer,
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Zonal Office-X, Chennai.
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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.12051.

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krd 18/3

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ORDER IN
W.P.NO.5790 OF 2015