

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2016

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition No.32477 of 2013

V.Kumari

...Petitioner

Vs.

1. The Assistant Executive Engineer
Zone-11, Division- 155
Corporation of Chennai,
Chennai-3

2.The Tamilnadu Housing Board,
Rep by its Managing director
No.493, Anna Salai, Nandanam
chennai-35

3.The Member Secretary
Chennai Metropolitan Development
authority, No.1, Gandhi Irwin Road
Egmore, Chennai-8

....Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the first respondent to consider grant of necessary planning permission sought for by the petitioner in P.P.A.No.PPA/WDC11/05341/2013 dated 22.5.2013 without insisting upon NOC from the second respondent and to extend all consequential rights thereto forthwith.

For Petitioner : Mr.R.Rajasekaran
For Respondents : Mr.R.Arunmozhi for R1

Mr.B.Vivekavana for R2

Mr.K.Rajasrinivas for R3

O R D E R

Petitioner has filed this writ petition to direct the respondents to consider and grant necessary planing permission without insisting no objection certificate from 2nd respondent.

2. Learned counsel for the petitioner has drawn the attention of this court to the earlier order passed in W.P.No.12225 of 2005 dated 24.06.2005, wherein a similar direction was sought for. The court found that there is only a proposal to acquire the lands for the scheme of Housing Board and mere proposal by the Housing Board for acquisition by itself cannot be a reason to deprive the owner of the land to enjoy the same. Accordingly, the writ petition was allowed. Similar order was passed in the case of Aruna Krishna Rathod vs. The Commissioner of Villivakkam Panchayat Union and another in W.P.No.9741 of 2007 dated 29.06.2007.

3. The counter affidavit filed by the 2nd respondent states that the Court erroneously assumed that the scheme stood abandoned such a stand has been taken in 2014. Even as per the counter affidavit of the 2nd respondent, there is no specific stand taken by them as regards the project as to what has been done in the matter. Merely by stating that the project has not been abandoned or suspended would not suffice, especially when the earlier orders passed by this Court remained unassailed by the 2nd respondent Board. Infact it is stated that those petitioners have been granted planning permission.

4. Accordingly, the writ petition is allowed, with a direction to the 3rd respondent to consider the petitioner application for grant of planning permission without insisting no objection certificate from the 2nd respondent. However, if the 3rd respondent is of the view that any clarification is required from the 2nd respondent, it is open to them to seek for appropriate clarification. The above direction be complied within a period of three months. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KPR

To

1. The Assistant Executive Engineer
Zone-11, Division- 155, Corporation of Chennai,
Chennai-3

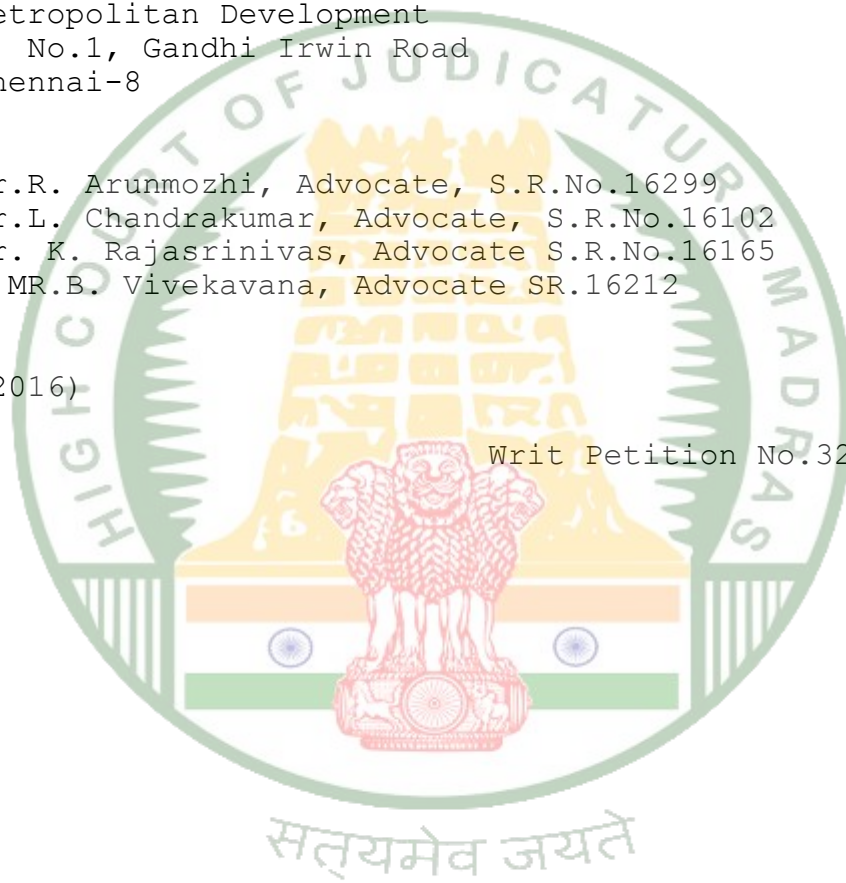
2.The Managing Director, Tamilnadu Housing Board,
No.493, Anna Salai, Nandanam, Chennai-35

3.The Member Secretary
Chennai Metropolitan Development
Authority, No.1, Gandhi Irwin Road
Egmore, Chennai-8

+1cc to Mr.R. Arunmozhi, Advocate, S.R.No.16299
+1cc to Mr.L. Chandrakumar, Advocate, S.R.No.16102
+1cc to Mr. K. Rajasrinivas, Advocate S.R.No.16165
+ 1 cc to MR.B. Vivekavana, Advocate SR.16212

KJI (CO)
EU(23/03/2016)

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