

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

W.P.No.24093 of 2010

and

M.P.No.1 of 2010

D.Parimala

.. Petitioner

-vs-

- 1.The Director,
Directorate of Town and Country Planning,
No.807, Anna Salai,
Chennai-600 002.
- 2.The District Collector (The Chairman),
Town and Country Planning,
O/o. The District Collector,
Coimbatore.
- 3.The Member Secretary,
Local Planning Authority,
Sivananda Colony, Tatabad,
Coimbatore-641 012.
- 4.The Superintending Engineer (Highways),
O/o. The Superintending Engineer,
Project Circle,
Coimbatore-641 043.
- 5.The Divisional Engineer,
Highways,
Nabard and Rural Roads,
Trichy Road,
Coimbatore-641 018.
- 6.The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore-641 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the entire records pertaining to the letter of the third respondent in Na.Ka.1331/2010 LPA-1 dated 20.09.2010 and quash the same and consequently direct the third respondent to grant Planning Permission with regard to the Site Plan for construction of ground plus three floors at T.S.No.52, Block No.11, Ward No.26, Vilankurichi Road, Peelamedu, Coimbatore Corporation, Coimbatore to the petitioner under the Tamil Nadu Town and Country Planning Act, 1971 without insisting gift deed.

For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for M/s.R.Selvakumar

For Respondents : Mr.T.N.Rajagopalan
Spl. G.P. for R1 to R6

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner seeks to assail the letter issued by the third respondent/Local Planning Authority, which while granting planning permission with regard to the site plan for construction of the ground plus three floors at T.S.No.52, Block No.11, Ward No.26, Vilankurichi Road, Peelamedu, Coimbatore, imposed conditions that part of the land should not only be left free, but an undertaking should be given to gift the land to the Corporation in the proposed project of widening of the road and an over-bridge.

2. It is trite to say that if any part of the land of the petitioner is required for road widening or for over-bridge or for any other public requirement, it will have to be acquired as per the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Any view to the contrary would be violative of Article 300-A of the Constitution of India and the constitutional protection cannot be compelled to be waived by insisting on a gift deed. However, it is within the domain of the respondents to stipulate that the said area be kept free from construction to facilitate the acquisition.

4. The learned Senior Counsel for the petitioner is right to the limited extent that it cannot be that this land is to be kept free from construction for all times to come. In case the

land is required for the project, then acquisition proceedings must be initiated. We, thus, specify a period of six months, which is a reasonable period of time, for any such process to be followed.

5.The writ petition, accordingly, stands disposed of. No costs. Consequently Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

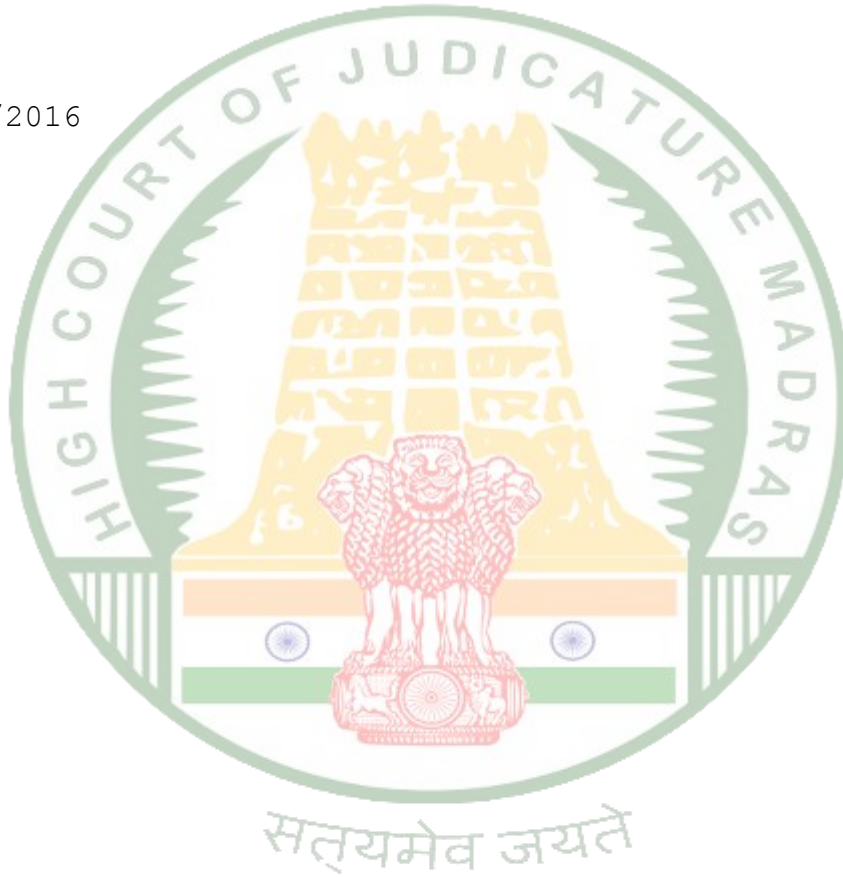
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6.The Commissioner,
The Coimbatore City Municipal Corporation,
Coimbatore-641 001.

+1cc to Mr.R.Sivakumar, Advocate sr.69901
+1cc to Mr.R.Selvakumar, Advocate sr.69944
+1cc to the Government Pleader sr.69778

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srg 23/12/2016



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