

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.12675 of 2017
and W.M.P.Nos.13503 and 13504 of 2017

Shree Chandraprabhu Jain Naya Mandir Trust
Rep.by its Vice President Mr.Ashvinkumar
No.142, Mint Street, Sowcarpet, Chennai - 600 079.
...Petitioner

/versus/

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.
 2. The Asst. Executive Engineer (TP)
Greater Chennai Corporation,
No.105, Basin Bridge Road,
Royapuram,
Chennai - 600 079.
- ...Respondents

Prayer: Writ petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, or any other appropriate Writ, order of direction, to call for the records of the 2nd respondent in letter No.W.D.C.No.PPA/WDCN05/02883/2017 dated 28.04.2017 and quash the same in so far as requesting the petitioner to give consent letter for executing the Gift Deed and further direct the respondents to forthwith issue planning permission to the petitioner herein in respect of the application in PPA/WDCNo.5/02883/2017 dated 26.04.2017 in respect of the petitioner's property situated in Door No.432 and 433, Mint Street, Sowcarpet, Chennai - 600 079.

For Petitioner	: Mr.L.Muralikrishnan
For Respondents	: Mr.P.V.Selvakumar

O R D E R

This writ petition has been filed for issuance of writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in letter No.W.D.C.No.PPA/WDCN05/02883/2017 dated 28.04.2017 and quash the same in so far as requesting the petitioner to give consent letter for executing the Gift Deed and further direct the respondents to forthwith issue planning permission to the petitioner herein in respect of the application in PPA/WDCNo.5/02883/2017 dated 26.04.2017 in respect of the petitioner's property situated in Door No.432 and 433, Mint Street, Sowcarpet, Chennai - 600 079.

2.The planning permission sought for by the petitioner was not been considered as it was mandated to give a consent letter for the purpose of executing a Gift Deed.

3.The learned counsel appearing for the petitioner would submit that the issue involved is covered by two Judgments of this Court, namely, W.P.No.148 of 2014 dated 06.02.2015 and W.P.No.15759 of 2014 dated 20.11.2015.

4.Though a counter affidavit has been filed by the respondents, the learned counsel for the petitioner is not in a position to dispute the ratio laid down in the aforesaid Judgment which was become final. In the Second Judgment rendered in W.P.No.15759 of 2014 dated 20.11.2015 after taking note of the earlier one, the following order was passed:

"3.....The said Writ Petitions were disposed of, by issuing following directions:

6. In the light of the above, this Court is of the view that it may be true that the interest of the Government should be protected, as there is a need for wider roads and the need is in public interest. At the same time, the interest of the small land owners, who own the land abutting the existing road, cannot be forgotten. Therefore, this Court, in several writ petitions issued directions directing the owner of the land to file an affidavit of undertaking to handover the front portion to the maximum extent required and also undertaking to keep the area free from any construction and subject to such undertaking, the planning permission application was directed to be processed and if it satisfies the other conditions, planning permission to be granted subject to the endorsement that the approval is granted based on the undertaking given by the petitioner and in the event of requirement of

the front portion of the land, the land owner or their successors in interest will hand over the land without any resistance.

7. Therefore, this Court is of the view that the same direction should be issued petitions are disposed of, directing the petitioners to submit an affidavit of undertaking not to put up any construction in the area earmarked for the purpose of road widening and keeping the area clear and also undertake to surrender the portion for implementation of road widening without prejudice to their 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 petitions are closed."

4. In the light of the above, this Writ Petition is also disposed of, by directing the petitioner to submit an affidavit of undertaking not to put up any construction in the area earmarked for the purpose of road widening and keeping the area clear and also undertake to surrender the portion for implementation of road widening without prejudice to its right to claim compensation. If such affidavit is filed, the respondent shall consider the same and process the application in accordance with the statutory provisions. No costs."

5. The said Judgment would apply to the case of the petitioner as well since the land according to the petitioner is still remains vacant. The petitioner is also ready and willing to give an undertaking.

6. In such view of the matter, the order impugned stands set aside and the Writ Petition stands disposed of by making the decisions aforesaid applicable to the case of the petitioner. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rna

To

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

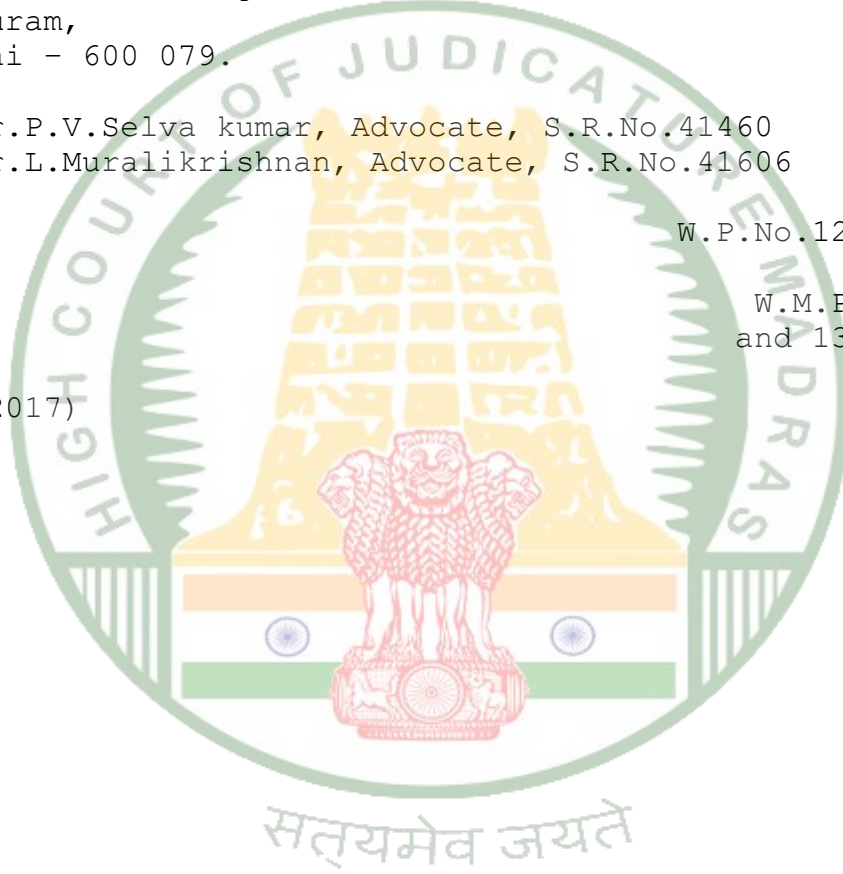
2. The Asst. Executive Engineer (TP)
Greater Chennai Corporation,
No.105, Basin Bridge Road,
Royapuram,
Chennai - 600 079.

+1cc to Mr.P.V.Selva kumar, Advocate, S.R.No.41460

+1cc to Mr.L.Muralikrishnan, Advocate, S.R.No.41606

W.P.No.12675 of 2017
and
W.M.P.Nos.13503
and 13504 of 2017

AD(CO)
RS(15/06/2017)



WEB COPY