

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Friday, the Sixth day of October Two Thousand Seventeen

PRESENT

THE HON'BLE MS.INDIRA BANERJEE, THE CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE M.SUNDAR

WMP No.26087 of 2017

in WP No.24725 of 2017

1 R.MUTHUKUMARASWAMY [PETITIONERS]

2 A.JENASENAN

3 K.SUNDARESWARAN

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS]
REP.BY ITS SECRETARY,
DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT, FORT ST. GEORGE,
CHENNAI-9.

2 THE CHENNAI METROPOLITAN
DEVELOPMENT AUTHORITY (CMDA), REP.BY ITS
MEMBER - SECRETARY, THALAMUTHU - NATARAJAN
BUILDING, NO.1, GANDHI IRWIN ROAD,
EGMORE, CHENNAI - 600 008.

3 THE CORPORATION OF CHENNAI
REP.BY ITS COMMISSIONER,
RIPON BUILDING, CHENNAI -3.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue an order of Interim Direction directing the 3rd respondent to consider the Application in ref.PPA/ WDC N09/ 05509 / 2017 submitted by the petitioners and grant building plan approval without insisting on transfer of the space set apart for widening of the Royapettah High Road in the Master Plan pending WP.No.24725 of 2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.AR.L.SUNDARESAN SENIOR COUNSEL for M/S.ABISHEK JENASENAN for M/S.S.MOHANASUNDARAJAN, Advocate for the petitioner and of MR.T.N.RAJAGOPALAN SPL.GOV'T.PLEADER for the 1st respondent and of MR.N.SAMPATH Advocate for the 2nd respondent and of MR.V.C.SELVASEKARAN Advocate for the 3rd respondent the court made the following order:-

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

This writ petition has been filed for declaration that Regulation 26(22) of the Development Control Regulations contained in Volume II of the Second Master Plan for the Chennai Metropolitan Area, 2026 issued by the second respondent is unconstitutional and ultra vires the provisions of the Tamil Nadu Town and Country Planning Act, 1971.

2. The aforesaid provision requires the developers to set apart land and transfer land to the local authority for widening of Royapettah High Road in the Master Plan, for consideration of their applications for sanction of building plan.

3. The petitioners have prayed for an interim order directing the third respondent to consider the application of the petitioner for approval of the building plan, without insisting on transfer of the space set apart for widening of the Royapettah High Road in the Master Plan.

4. Learned counsel appearing on behalf of three writ petitioners submit that the petitioners are willing to execute a deed of gift in respect of the space set apart for widening of the Royapettah High Road in the Master Plan without prejudice to their rights and contentions in the writ petitions.

5. Learned counsel appearing on behalf of the third respondent is agreeable to consider the plan approval upon execution of a deed of gift.

6. There are a batch of writ petitions challenging the vires of Regulation 26(22) referred to above. Learned counsel appearing on behalf of one of the writ petitioners being W.P.No.4782 of 2017 submits that his client had executed a deed of gift in respect of the land required for widening the road. The deed has been presented for registration, but kept pending for registration by the Registering Authority. The registration has not been done, since the third respondent has not deposited the stamp duty on the basis of valuation of the land.

7. Learned Government Pleader (in-charge) submits that there is a Government Order, which exempts deed of gift to the statutory authorities for public purpose from stamp duty. There can be no

doubt that widening of road is a public purpose. There can also be no doubt that the third respondent is a statutory authority/local authority. The Government Order exempting stamp duty in case of gift of this kind is attracted.

8. Subject to the execution of a deed of gift in respect of the land in question, without prejudice to the rights and contentions of the parties, in the pending writ petition, the third respondent may process and take a decision on the application for approval of the building plan. Such decision shall be taken as early as possible, preferably within four weeks from the date of the execution of the deed of gift.

9. The miscellaneous petition being W.M.P.No.26087 of 2017 is, thus, disposed of.

10. Let the writ petition be listed for hearing on 23.10.2017 along with W.P.Nos.4782, 34926 & 30905 of 2017.

-sd/-
06/10/2017

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
THE GOVERNMENT OF TAMILNADU,
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
FORT.ST.GEORGE, CHENNAI-9

2 THE MEMBER SECRETARY
THE CHENNAI METROPOLITAN
DEVELOPMENT AUTHORITY (CMDA),
THALAMUTHU - NATARAJAN BUILDING,
NO.1, GANDHI IRWIN ROAD,
EGMORE, CHENNAI - 600 008.

3 THE COMMISSIONER,
THE CORPORATION OF CHENNAI
RIPON BUILDING, CHENNAI -3.

C.C. to M/S.S.MOHANASUNDARAJAN Advocate SR.NO.12878

The Special Government Pleader, High Court, Madras - 104.

Order

in
WMP.26087/2017

in
WP.24725/2017

Date :06/10/2017

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