

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.15070 of 2017 &
W.M.P.No.16324 of 2017

Shanmugha Arts
Science and Technology and
Research academy (Sastra) University
A University under Section
3 of the UGC Act Having its
Headquarters at No.5
Subbarayan Nagar Main Road
Kodambakkam
Chennai - 600 024 ...Petitioner

v.

1 The Chennai Metropolitan
Development Authority
Thalamuthnu Natarajan Building
No.1, Gandhi Irwin Road
Ansari Estate, Egmore
Chennai - 600 008.

2. Commissioner
Greater Chennai Corporation
Ripon Building
Sydenhams Road
Kannappur Thidal
Periyamet, Chennai - 60003.

3. State of Tamil Nadu
Rep. by the Secretary to
the Government Housing and
Urban Development Department
Chennai - 600 009. ... Respondents

Writ Petition filed under Article 226 of the
Constitution of India praying for the issuance of a writ of
Mandamus, directing the 1st respondent to consider and pass
orders in the application for planning permission made by the
petitioner for stilt + 3 floors Welfare Institutions and
Assembly Hall and residential building at D.No.9/19, Karnan
Street, Kodambakkam, Chennai - 600 024, bearing SBC
No.530/2015 and dated 03.07.2015, without insisting upon a
gift deed in favour of the 1st respondent for the street
alignment portion of 18 metres.

For Petitioner : Mr.Sathish Parasaran, Sr. Counsel
for Mr.R.Parthasarathy

For Respondents : Mr.K.Rajasrinivas
Standing Counsel - for R1

Mr.P.V.Selvakumar
Addl. Govt. Pleader - for R2 & R3

O R D E R

The petitioner has filed the above writ petition to issue a Writ of Mandamus, directing the 1st respondent to consider and pass orders in the application for planning permission made by the petitioner for stilt + 3 floors Welfare Institutions and Assembly Hall and residential building at D.No.9/19, Karnan Street, Kodambakkam, Chennai- 600 024, dated 03.07.2015, without insisting upon a gift deed in favour of the 1st respondent for the street alignment portion of 18 metres.

2. Heard, Mr.Sathish Parasaran, learned Senior Counsel appearing for the petitioner, Mr.K.Rajasrinivas, learned Standing Counsel appearing for the 1st respondent and Mr.P.V.Selvakumar, learned Additional Government Pleader appearing for the correspondents 2 and 3.

3. The learned counsel appearing on either side have not disputed the fact that the issue involved in this writ petition is squarely covered by an order dated 06.02.2015, passed by this court in W.P.Nos.148 of 2014, 18541 of 2012, 12581 of 2012 and 5188 of 2013 [G.Dilip Kumar and others v. The Member Secretary, Chennai Metropolitan Development Authority, Chennai and others]. The said writ petitions were disposed of, by issuing the 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 in these cases also. Accordingly, the writ 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 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, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

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Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

Rj

To

1 The Chennai Metropolitan Development Authority
Thalamuthnu Natarajan Building
No.1,Gandhi Irwin Road
Ansari Estate, Egmore
Chennai - 600 008.

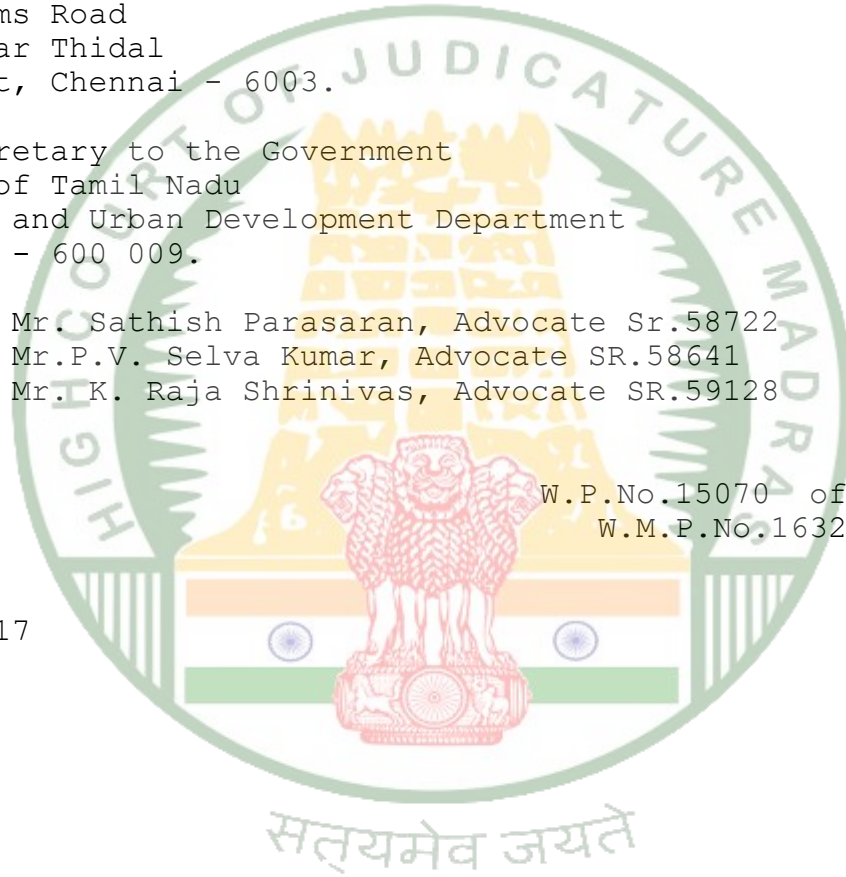
2.The Commissioner
Greater Chennai Corporation
Ripon Building
Sydenhams Road
Kannappar Thidal
Periyamet, Chennai - 6003.

3.The Secretary to the Government
State of Tamil Nadu
Housing and Urban Development Department
Chennai - 600 009.

+ 1 cc to Mr. Sathish Parasaran, Advocate Sr.58722
+ 1 cc to Mr.P.V. Selva Kumar, Advocate SR.58641
+ 1 cc to Mr.K. Raja Shrinivas, Advocate SR.59128

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EU 22.08.17



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