

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.04.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WA.No.306 of 2018 and CMP.No.2467 of 2018

Assistant Engineer,
Town Planning Approval Section,
Regional Office South
Greater Chennai Corporation .. Appellant /
Respondent

Versus

V.Velayudham .. Respondent/
Petitioner

PRAYER:- Writ Appeal filed under clause 15 of the Letter Patents prays this Court to set aside the order of the learned Judge passed in WP.No.21066 of 2016 dated 29.06.2016.

WP.No. 21066/2016 is filed under Article 226 of the constitution of India praying that the issuance of a Writ of Certiorarified mandamus, to call for the records of the respondent pertaining to his impugned order in WDC No. PPA/WDCN13/02287/2016 dt 13.6.2016 and quash the same and further direct the respondent to grant planning permission following the due process of law.

For Appellant : M/s.Karthikaa Ashok
For Respondent : Mr.P.V.Sudhakar

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal.

2. The sole respondent in WP.No.21066 of 2016 is the appellant. The respondent/writ petitioner made a challenge to the impugned proceedings of the appellant herein dated 13.06.2016 in and by which, he was directed to produce the Gift

Deed, since the proposed plot of him comes under the road alignment and also for processing his application for planning permission.

3. The learned Single Judge after taking into consideration the earlier order dated 26.10.2015 made in WP.No.30070 of 2015, has disposed of the writ petition based on the undertaking that the writ petitioner is ready and willing to handover the requisite portion for road widening, as and when the process commences and that he will be satisfied if adequate compensation paid to him.

4. The learned standing counsel appearing for the appellant would submit that in the light of the Development Regulation 26(22), the authorities have no right to insist upon the applicant to set apart such award for road side development and shall be handed over at free cost through registered Gift Deed through the authority of Local Body for declaring as a public road and in the light of the same, the order passed by the learned Judge granting concession to the respondent/writ petitioner is per se unsustainable.

5. The learned counsel appearing for the respondent/writ petitioner would submit that challenging the vires of Development Regulation 26 (22), series of writ petitions have also been filed and the petitioner has also filed WP.No.34926 of 2016, wherein the Division Bench vide interim order dated 19.10.2016 has stayed the execution of the Gift Deed as prerequisite for construction of the property but however keeping the said area as it is and accordingly, the petitioner has proceeded with the construction and set apart the area required for future road alignment.

6. In the light of the said development, nothing survives for further adjudication in this writ appeal. Therefore, it is closed. It is also made clear that the respondent/writ petitioner, subject to the result of WP.No.34926 of 2017, shall not create any third party right in respect of the land set apart for road widening purpose and shall not alter the physical features also.

Sd/-
Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

sk/rka

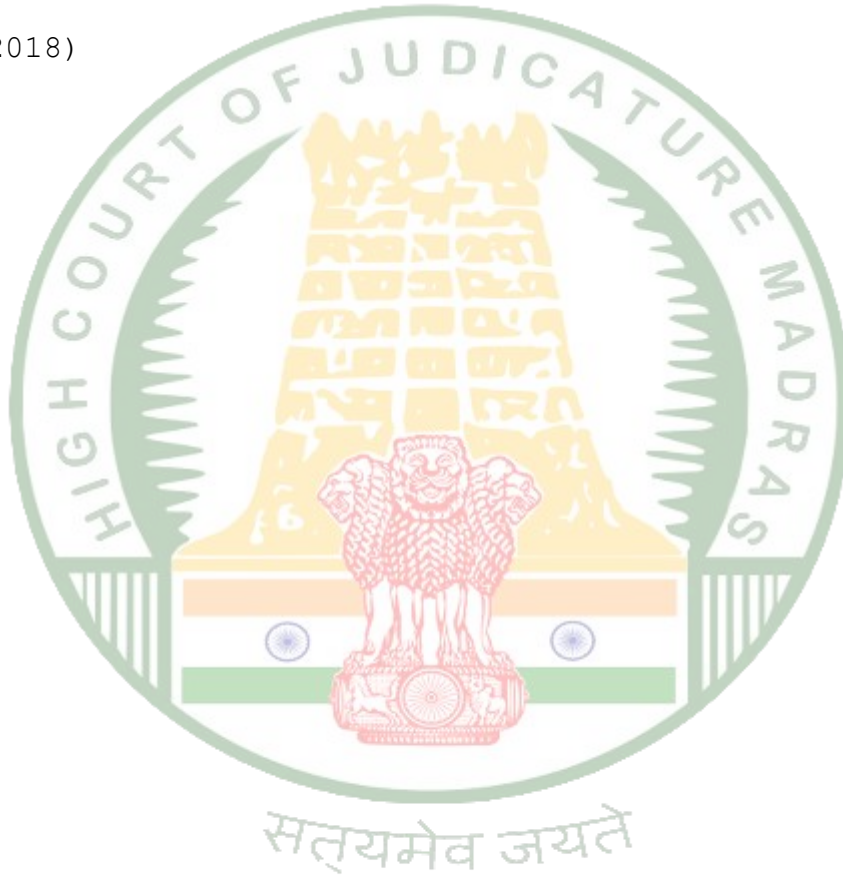
TO

Assistant Engineer,
Town Planning Approval Section,
Regional Office South
Greater Chennai Corporation

+1cc to Mr.P.V.Sudhakar, Advocate SR.No.24659
+1cc to Mr.Karthika Ashok, Advocate SR.No.24589

WA.No.306 of 2018

KJI (CO)
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