

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.01.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P.No.17496 of 2017

R.Jamunabai

...Petitioner

.Vs.

1. The Commissioner
Corporation of Chennai,
Rippon Building, Chennai-600 003.
2. The Executive Engineer
Corporation of Chennai, Zonal Office-X
Chennai, Rippon Building, Chennai-600 003.
3. The Assistant Executive Engineer
Town Planning Approval Section Works Department,
No.64, N.S.K.Slai, Kodambakkam,
Chennai-600 024.Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the 2nd and 3rd respondents to consider the petitioner's representation dated 05.05.2017, within the time stipulated by the Court.

For Petitioner : Mr.N.Saravanan
For Respondents : Mr.T.C.Gopalakrishnan

ORDER

The petitioner has come forward with the present writ petition seeking for a issuance of writ of mandamus directing the second and third respondent to consider the petitioner's representation dated 05.05.2017 within the stipulated time.

2.The case of the petitioner is that, she is the absolute owner of the property situated at Door No.17, Old No.23, Karnan Street, Murugesu Naicker Colony, Kodambakkam, Chennai-600 024 ,by virtue of the registered sale deed dated 30.12.1974. The petitioner would further state that there is an old super structure existing in that property and therefore she approached the respondents for seeking permission to demolish the old construction and put up new construction and at that time she was informed that she has to execute a gift deed in favour of the Corporation for widening the road for processing the application.

3.In the affidavit filed in support of the writ petition, the petitioner has stated that she has already given an

undertaking to the respondents that she is ready and willing to hand over the requisite portion for road widening, if the need arise in future. She also under take that she will have no objection for the acquisition and she will not put up any construction in the area earmarked in anticipation for road widening and she would be satisfied if adequate compensation that would be disbursed in accordance with law.

4.Mr.N.Saravanan the learned counsel appearing for the petitioner would submit that the order of, this Court in W.P.No.12675 of 2017, dated 12.6.2017, would squarely apply to the case on hand.

5.Mr.T.C.Gopalakrishnan, learned standing counsel for the respondent has not disputed the statement of the learned counsel for the petitioner.

6. In W.P.No12675 of 2017, this Court has held as follows:-

"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:

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 small land owners, who own the land abutting the Court, in several writ petitions issued directions directing the owner of the land to file an affidavit of undertaking to handover the from 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 the 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.

8. 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. This Court is of the considered opinion that the order passed in the earlier writ petition is squarely applicable to the facts of the case and the writ petition stands disposed of by making the decision aforesaid applicable to the case of the petitioner.

6. Accordingly, the writ petition stands disposed of. No costs.

smn

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To.

1. The Commissioner Corporation of Chennai,
Rippon Building, Chennai-600 003

2. The Executive Engineer
Corporation of Chennai,
Rippon Building, Chennai-600 003.

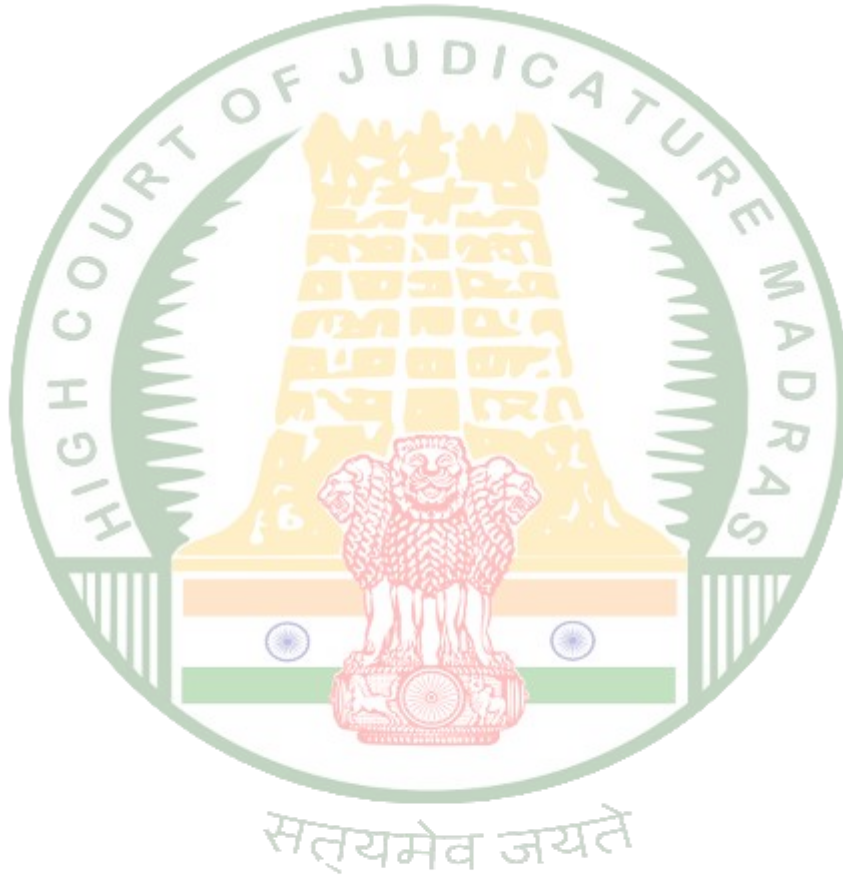
3. The Assistant Executive Engineer
Town Planning Approval Section-works Department,
No.64, N.S.K.Slai, Kodambakkam,
Chennai-600 024.

+1cc to Mr.N.Saravanan, Advocate Sr.No.1536

+1cc to Mr.T.C.Gopalakrishnan, Advocate Sr.No.1697

sm:30.1.2018

W.P.No. 17496 of 2017



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