

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :20.11.2019

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.30645 of 2019

and

W.M.P.No.30719 of 2019

T.Padmanabhan

... Petitioner

/versus/

1.The Secretary to Government,
Housing and Urban Development,
Secretariat, Chennai 600 009.

2.The Commissioner,
Greater Chennai corporation,
Ripon Building, Chennai 600 003.

3.The Executive Engineer,
Zone-6, Greater Chennai Corporation,
Anderson Road, Ayanavaram,
Chennai 600 023.

4.The Assistant Executive Engineer,
Zone-6, Unit 16, Division-68,
Greater Chennai Corporation,
Anderson Road, Ayanavaram,
Chennai 600 023.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 3rd and 4th respondents to consider the application No.PPA/WDCNO6/06372/2019 dated 21.09.2019 without insisting the petitioner to execute gift deed in favour of the 2nd respondent for the necessary area which shall be earmarked for the purpose of road widening by the 3rd and 4th respondents.

For Petitioner :Mr.V.Raghupathi

For Respondents :Mr.M.Thamizharasan, GA for R1

Mrs.Karthika Ashok,
standing counsel for R2 to R4

O R D E R

This writ petition has been filed praying to issue a Writ of Mandamus directing the 3rd and 4th respondents to consider the application No.PPA/WDCNO6/06372/2019 dated 21.09.2019 without insisting the petitioner to execute gift deed in favour of the 2nd respondent for the necessary area which shall be earmarked for the purpose of road widening by the 3rd and 4th respondents.

2.Heard the learned counsel appearing for the petitioner and learned Government Advocate appearing for the 1st respondent and the learned standing counsel appearing for respondents 2 to 4.

3.The petitioner herein on 21.09.2019 submitted his application through on-line for building plan permission from the Corporation of Chennai.

4.On scrutiny of the application, the Corporation has directed the petitioner to produce the gift deed for road widening portion and communicated the same to the petitioner vide letter dated 29.10.2019 stating that failure to comply with the above requirements within seven days of receipt of the communication will lead to disposal of the above application, on its merits, without further intimation.

5.The issue of gifting space for road widening, as per the Regulation 26(22) of the the Development Regulations, is under challenge and pending before the Division Bench of this Court. As long as this Regulation is in vogue, the petitioner herein without gifting the land free of cost for road widening cannot insist upon the plan permission.

6.The apprehension of the petitioner is that in future if the land has to be acquired for widening the road, execution of gift will dis-entitle him the compensation for acquisition and his valuable right of property will be deprived. When Regulation 26(22) of the

Development Regulations gives the right to the authorities to insist the applicant to set apart such road space within the site and the applicant should hand over the site free of cost through a registered gift deed to the authorities, the demand of the Corporation to gift the land for widening of road in future cannot be termed as illegal or ultra vires.

7. Till the Regulation is set aside or interfered by the Court in the pending Writ Petition No.34926 of 2016, the prayer in the writ petition cannot be acceded. Therefore, this Court is not able to grant the relief sought for in the writ petition. However, if the petitioner is inclined to wait till the disposal of the pending writ petition, the application made by the petitioner on 21.09.2019 shall not be disposed of till then and the limitation of 30 days shall stand exempted to his application. The petitioner is at liberty to challenge that provision 26(22) independently if he is so advised.

8. With the above observations, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
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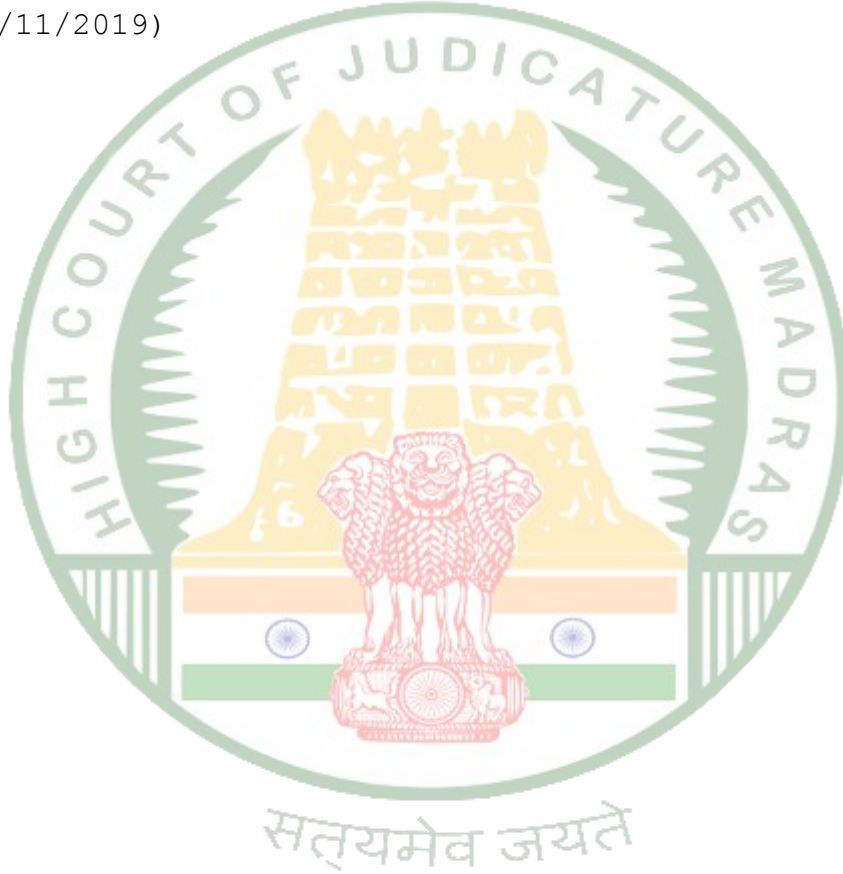
+1cc to Mr.V.Raghupathi , Advocate SR.No. 96633

+1cc to Mrs.Karthika Ashok , Advocate SR.No. 96690

W.P.No.30645 of 2019

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A.SK(21/11/2019)



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