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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.19963 of 2012

&

W.M.P.Nos. 1 & 2 of 2012

1. Ashwin Kumar

2. Arun Kumar

... Petitioners

Vs.

1. The Member Secretary
Chennai Metropolitan Development Authority
1.Gandhi Irwin Road, Egmore
Chennai - 600 008.

2. The Commissioner
Corporation Of Chennai
Ripon Building, Chennai.

3. The Assistant Executive Engineer (T.P)
Corporation of Chennai
Chennai - 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue aWrit of Mandamus, to call for the records of the 3rd respondent in W.D.C.No.PPA/WDC05/07161/2012 dated 13.06.2012 and quash the same and further direct the respondents to forthwith issue planning permission to the petitioner herein for the premises bearing New Door No.56 & 58, Old Door No.58 & 59, ThirunarayanaguruSalai (Hunters Road), Choolai, Chennai - 600 112 without insisting to hand over the area earmarked for road widening as shown in the sketch through a Registered Gift Deed to the CMDA or Local Body and without compelling the petitioner to accept Transferable Development Rights for the same.

For Petitioner : Mrs.Hema Murali Krishnan

For Respondents : Mr.Rahul Aditya for
Ms.P.T.Ramadevi



O R D E R

Heard Mrs.HemaMuralikrishnan, learned counsel for the petitioner and Mr.Rahul Aditya, learned counsel for R2 & R3. There is no appearance for R1.

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2. The petitioner challenges an order passed by R3 and seeks a direction to the respondents to issue a planning permit in respect of premises bearing New Door Nos.56 & 58, Old Door No. 58 & 59, ThirunaryanaguruSalai, (Hunters Road), Choolai, Chennai - 112 without insisting upon the handing over of an area earmarked for road widening as shown in the sketch of the registered gift deed to the Chennai Metropolitan Development Authority (CMDA) or Local Body and without compelling the petitioner to accept Transferable Development Rights for the same.

3. Similar challenge has been considered by this Court in W.P.No.15759 of 2014, wherein this Court upon consent expressed by both the learned counsel, followed the ratio laid down in W.P.Nos.148 of 2014, 18541 of 2012, 12581 of 2012 and 5188 of 2013, wherein it was held as under:-

'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



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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. It is relevant to note that the impugned order in the aforesaid Writ Petition, which is similar to the one in the present case, has not been set aside by this Court, and, a direction has been issued to the petitioner therein to submit an affidavit of undertaking that they will not put up any construction in the area earmarked for the purpose of road widening abutting the area earmarked. The affidavit is also to the affect that the petitioner will surrender the portion earmarked for the purpose of road widening, though subject to the right of claiming compensation at the appropriate juncture.

5. In the interests of uniformity, the same directions are passed herein as well. Subject to as affidavit/undertaking being filed by the petitioner herein, as above, the respondents are directed to take note of the same and process the application in accordance with law and all applicable rules and regulations.

6. This writ petition stands disposed as above, consequently connected miscellaneous petitions are also closed. No Costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

nst/sl

To

1. The Member Secretary
Chennai Metropolitan Development Authority
Gandhi Irwin Road, Egmore
Chennai - 600 008.

2. The Commissioner
Corporation Of Chennai
Ripon Building, Chennai.



3.The Assistant Executive Engineer (T.P)
Corporation of Chennai
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+1cc to Mr.P.T.Ramadevi,S.C, Advocate, S.R.No.23901
+1cc to Mr.L.Murali Krishnan, Advocate, S.R.No.24017

W.P.No.19963 of 2012 &
W.M.P.Nos. 1 & 2 of 2012

SKM(CO)
SB(02/05/2022)