



W.A.No.2152 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

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1. The Commissioner
Corporation of Chennai
Rippon Buildings
Chennai – 600 003.
2. The Executive Engineer
Corporation of Chennai
Zonal Office, Chennai – 600 004.
3. The Assistant Executive Engineer
Division No.135, Zonal Office
Corporation of Chennai
No.36G, Pulla Avenue
Chennai – 600 040.

.. Appellants

Vs

1. S.Padmavathi
2. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Chennai – 600 008.

.. Respondents



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Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 23.8.2022 passed by the learned Single Judge in W.P.No.21974 of 2022.

For the Appellants : Mr.P.Kumaresan
Additional Advocate General
assisted by Ms.K.Aswini Devi

For the Respondents : Mr.S.N.Parthasarathy
for 1st respondent

: Ms.C.N.Vinobha
for 2nd respondent

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.P.Kumaresan, learned Additional Advocate General, assisted by Ms.K.Aswini Devi, learned counsel for the appellants; Mr.S.N.Parthasarathy, learned counsel for the first respondent; and Ms.C.N.Vinobha, learned counsel for the second respondent.

2. The first respondent/original writ petitioner filed the writ



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petition seeking directions against the present appellants to forthwith issue planning permission with regard to the premises at New No.47, Old No.17, Arya Gowder Road, West Mambalam, Chennai – 600 033, without insisting to handover the area or as per requisite facing road through a registered gift deed to CMDA or to the Corporation of Chennai.

3. The learned Single Judge while disposing of the writ petition has not decided the issue with regard to the extent of land that should be set apart and the manner in which it should be set apart.

Paragraphs 8 to 11 of the order read thus:

"8. The impugned communication in page 120 of the typed set merely directs the petitioner to furnish a gift deed. It has not stated that the extent for which the petitioner should furnish a gift deed in terms of Rule 35(19) of the Tamil Nadu Combined Development and Building Rules, 2019.

9. I am inclined to dispose this writ petition at the time of admission by directing the respondents to process the petitioner's application after obtaining an



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undertaking from the petitioner to the extent of land which should be set apart by the petitioner for the purpose of Rule 35(19) of the Tamil Nadu Combined Development and Building Rules, 2019.

10. The issue is as to whether the petitioner is required to execute a gift deed or whether the respondents are entitled to acquire a land by paying suitable compensation or whether by giving Transferable Development Right or enter into an agreement with the petitioner under the provisions of the Tamil Nadu Town and Country Planning Act, 1971 can be decided separately and independently as and when the issue arises for consideration.

11. The respondents are directed to give particulars of the extent of land to be set apart for the purpose of Rule 35(19) of the Tamil Nadu Combined Development and Building Rules, 2019. The petitioner shall thereafter resubmit the plan after factoring the above requirement. This exercise shall be carried out by the respondents within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the approval to be granted to the petitioner shall be without prejudice



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to the rights of the respondent under the Tamil Nadu Combined Development and Building Rules, 2019 and Tamil Nadu Town and Country Planning Act, 1971."

4. From a perusal of the above, it is manifest that the present appellants have not given the extent of the area which the writ petitioner is required to set apart. The points as to whether the writ petitioner is required to execute a gift deed or whether the appellants are entitled to acquire a land by paying suitable compensation or whether by giving Transferable Development Right or enter into an agreement with the writ petitioner under the provisions of the Tamil Nadu Town and Country Planning Act, 1971 are kept open by the learned Single Judge. The present appellants are directed to give particulars of the extent of land to be set apart for the purpose of Rule 35(19) of the Tamil Nadu Combined Development and Building Rules, 2019. The writ petitioner is thereafter directed to submit the plan after factoring the above requirement.



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5. We do not find that the learned Single Judge has decided any issue.

6. In the light of that, entertaining the present appeal would be merely academic. As such, the present appeal is disposed of. There will be no order as to costs. Consequently, C.M.P.No.18410 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

18.08.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi

To
The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Chennai – 600 008.



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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKE SAVALU, J.

(sasi)

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