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W.P.No.10140 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10140 of 2023

1.P.Gajendiran

2.G.Rajeswari

... Petitioners

Vs.

1.The Commissioner
Greater Chennai Corporation
Chennai – 600 003.

2.The Executive Engineer
Town Planning Approval Section
Ward No.IV 119, Zone N09
Greater Chennai Corporation
No.4, 4th Cross Street
Lake View Road,
Chennai – 600 034.

3.The Assistant Executive Engineer
Town Planning Approval Section
Ward No.IV 119, Zone N09
Greater Chennai Corporation
No.4, 4th Cross Street
Lake View Road
Chennai – 600 034.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order in W.D.C.No.PPA.WDCN09/11034/2022 dated 05.12.2022, on the file of the 3rd respondent, quash the same and consequentially direct the respondents by granting planning permission to the petitioner herein for the premises in Door No.32/187, Venkatachalam Street, Royapettah, Chennai-14 without insisting the petitioner to execute gift deed in favour of the 1st respondent to an extent of 180.768 Sq.ft. earmarked for the purpose of widening of the road as insisted in the order W.D.C.No.PPA / WDC N09/11034/2022 dated 05.12.2022 on the file of the 3rd respondent.

For Petitioners	: Mr.S.Venkatesan
For Respondents	: Mr.E.C.Ramesh Standing Counsel [For Greater Chennai Corporation]

ORDER

The objections raised by the Corporation in letter dated 05.12.2022 asking the petitioner to provide Gift Deed for the Road Widening Portion in favour of the Commissioner Greater Chennai Corporation for grant of building plan permission is under challenge in the present writ petition.



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2. The 1st petitioner states that he is owning the premises consisting of land and building bearing Door No.32/187, Venkatachalam Street, Royapettah, Chennai – 600 014 along with his wife Smt.G.Rajeswari / 2nd petitioner and the petitioners have taken a decision to demolish the old building and reconstruct a new building. The petitioners submitted a proposal for demolishing and reconstruction of the premises. The petitioners state that they are ready to offer a portion of that area for widening the road subject to award of compensation as per the second master plan released by the Chennai Metropolitan Development Authority (CMDA).

3. The learned counsel for the petitioners states that the petitioner is ready to give an undertaking to surrender the land whenever the road widening project is implemented or in alternate the petitioner may be sanctioned compensation.

4. This Court is of the considered opinion that the law, which is in force in the matter of grant of building plan permission, is to be followed scrupulously by the competent authorities. The city like Chennai is already over flooded and has become concrete jungle. Thus, the authorities



competent must be cautious, while granting building plan permissions in accordance with the rules in force. Illegalities, irregularities, corruption and violations are causing grave danger to the public at large. City is not only polluted and over crowded, but also filled with illegalities in construction activities. All such illegalities are continuously happening on account of corruption and collusion of the authorities competent.

5. The Chennai Corporation is granting building plan approvals, but they are not monitoring the construction activities made by the persons, who have been granted building plan approvals. Several officials are aware of such violations, illegalities in construction of buildings etc. However, no actions are taken. Large scale corrupt activities are in the public domain and a factual inference is to be drawn that the authorities are allowing all such illegalities, violations in construction activities either knowingly or on extraneous considerations. The authorities are failing in their duties to protect the public interest and to protect the interest of the environment, pollution etc. People in Chennai City are unable to walk on the road as walk paths are fully encroached. Many accidents are happening on account of such encroachments and the authorities competent are silent spectators in respect



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of the all such encroachments. People are lamenting that such large scale corruptions are going on in not only in building activities, but also in encroachments. However, the actions taken are insufficient to control such illegalities and more especially, in the Chennai City.

6. In the present case, the learned counsel for the petitioner brought to the notice of this Court that as far as the second master plan released by the CMDA, wherever there is a road widening project, the applicants who all are seeking building plan permission is bound to gift the portion of that area for widening of road.

7. In this regard, Rule 35 Clause 19 of the Tamil Nadu Combined Development and Building Rules, 2019, stipulates *“The space set apart and notified for formation of a new road or road widening or street alignment shall be transferred to the local body through a registered Gift Deed before actual issuance of Building Permit. The exact mode of conveyance of the land shall be consistent with the relevant enactment and regulations. In such cases ‘Transfer of Development Rights’ (TDR) provisions of the rule 48 shall be applicable”*.



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8. Therefore, as per the publication made by the CMDA for second master development plan, in order to implement the proposed road widening project in Venkatachalm Street, Royapettah, Chennai, the applicants, who all are seeking building plan permission have to gift the portion of their property for getting such building plan in the interest of public and for future development of that locality. Such developments would be helpful to the people residing in that locality and the public at large. Development of road projects are of paramount importance and compromise in this regard would cause irreparable loss to the nation. Thus, the rules in this aspects at no circumstance be flouted and the Courts cannot encourage such violations of rules, which would cause infringement to the basic rights of the other citizens, who all are also entitled to use the public amenities, infrastructure facilities, roads, etc.

9. Right of a citizen is duty to be performed towards other citizen. It is a corresponding term and therefore, a person, who claims right, is expected to perform his duties. Thus, the rule contemplates production of a gift deed for the purpose of securing building plan permission in the interest of public and



therefore, the case of the petitioner is to be considered on production of the gift deed as per the second master plan approved by the CMDA.

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10. In the event of petitioner submitting the gift deed, the respondents are directed to consider the application and pass appropriate order without causing any undue delay.

11. With the above direction, this Writ Petition stands disposed of. No costs.

03.04.2023
(3/3)

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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S.M.SUBRAMANIAM, J.

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(3/3)