



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**  
**and**  
**THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017 and 32072 of 2019  
and  
W.M.P.No.5023 of 2017

**[W.P.No.30905 of 2015]**

P.Vijayakalyani

... Petitioner

**Vs.**

1. The State of Tamilnadu,  
Rep. by the Secretary to Government,  
Housing and Urban Development Department,  
Fort St. George, Secretariat,  
Chennai-600 009.

2. The Chennai Metropolitan Development Authority,  
Rep. by its Member Secretary,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

3. Corporation of Chennai,  
Rep. by its Commissioner,  
Ripon Building, Chennai-600 003.

... Respondents



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

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**Prayer :-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, declaring the Regulation 26(22) of Development Regulations for Chennai Metropolitan Area as unconstitutional and *void ab initio*.

For Petitioner : M/s.Richardson Wilson

For Respondents : Mr.D.Gopal, Govt.Advocate(for R1);

Mrs.P.Veena Suresh (for R2);

Mr.G.T.Subramanian (for R3).

**[W.P.No.34926 of 2016]**

V.Velayudham

... Petitioner

**Vs.**

1. The State of Tamil Nadu,  
Rep. by the Secretary to Government,  
Housing and Urban Development Department,  
Fort St. George, Secretariat, Chennai-600 009.

2. Chennai Metropolitan Development Authority,  
Rep. by its Member Secretary,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-8.

3. Corporation of Chennai,  
Rep. by its Commissioner,  
Rippon Building, Chennai-3.



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

4. The Assistant Engineer,  
Town Planning Approval Section,  
Regional Office South,  
Greater Chennai Corporation,  
115, Dr. Muthulakshmi Salai,  
Adyar, Chennai-20.

... Respondents

**Prayer :-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, pertaining to Regulation 26(22) of Development Regulations for Chennai Metropolitan Area passed by the 2nd respondent and approved by the 1st respondent as ultra vires the Constitution of India.

For Petitioner : M/s.P.V.Sudakar

For Respondents : Mr.D.Gopal, Govt.Advocate(for R1);

Mrs.P.Veena Suresh (for R2);

Mr.G.T.Subramanian (for R3).

**[W.P.No.4782 of 2017]**

M/s.Doveton Protestant Schools Association,  
Rep. by its Authorised Signatory  
Mr.M.A.Azeez,  
No.1, Ritherdon Road,  
Vepery, Chennai-600 007.

... Petitioner

**Vs.**

1. The State of Tamilnadu,  
rep. by its Secretary to Government,  
Housing and Urban Development Department,



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

Fort St. George, Chennai-9

2. Greater Chennai Corporation,  
Rep. by its Commissioner,  
Ripon Building, Chennai.

3. The Member Secretary,  
Chennai Metropolitan Development Authority,  
Egmore, Chennai-8.

4. The Sub Registrar,  
office of the Sub Registrar,  
Periamet, Chennai-3.

... Respondents

**Prayer :-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, to declare Rule 26(22) of the Development regulations of the 3rd respondent (Approved by the Government of Tami Nadu G.O.Ms. No.198, Housing and Urban Development dated 2.9.2008 and notified in the Tamilnadu Government Gazette extraordinary No.266 part II Section 2 dated 2.9.2008) as illegal and unconstitutional and consequently to declare the Registration of Gift Deed Registered on 16.3.2016 as Document No.P38, on the file of the 4th respondent executed in favour of the 2nd respondent as invalid.

For Petitioner : M/s.J.Ashok

For Respondents : Mr.D.Gopal, Govt. Advocate  
(for R1& R4);

Mrs.P.Veena Suresh (for R3);

Mr.G.T.Subramanian (for R2).



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

WEB COPY

**[W.P.No.32072 of 2019]**

K.Rajesh Kumar

... Petitioner

**Vs.**

1. The Commissioner Corporation of Chennai,  
Rippon Building, Chennai-3

2. The Assistant Executive Engineer,  
Town Planning Section- Kodambakkam,  
Zone X, Ward 134,  
Greater Chennai Corporation,  
No. 64, NSK Salai,  
Kodambakkam, Chennai-600 024.

3. The Member Secretary,  
Chennai Metropolitan Development Authority,  
No 1, Gandhi Irwin Road,  
Egmore, Chennai-8.

... Respondents

**Prayer :-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Application No. PPA/WDCN10/05632/2019 dated 26.8.2019 for construction of new building and quash the letter W.D.C.No. PPA/WDCN10/05632/2019 dated 4.9.2019 of the second respondent sent to the petitioner and consequently direct the respondent to consider the Petitioner's Application No. PPA/WDCN10/05632/2019 dated 26.8.2019 for construction of new building without insisting Gift Deed for road widening.



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

For Petitioners : M/s.C.Senapathi

For Respondents : Mr.G.T.Subramanian (for R1& R2);

Mrs.P.Veena Suresh (for R3);

### **COMMON ORDER**

***(Judgement of the Court was delivered by S.M.Subramaniam J.)***

The right to property is a constitutional right of a citizen under Article 300(A) of the Constitution of India. Such right can be taken away by the authority of law. Therefore, the property right of a citizen cannot be infringed without following the procedures as contemplated under law.

2. In the present case, the writ petitioners have mainly contended that their property rights are sought to be infringed by the authorities without following the due process since the authorities have pressurized and insisted the land owners to gift the land for road expansion projects in the subject locality.



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

3. The local authorities are not empowered to insist the land owners to execute a gift deed in violation of the provisions under law. If at all, the lands are required for formation of road or expansion of existing road, street, etc., land acquisition proceedings are to be instituted by following the due process and by settling compensation as contemplated under the land acquisition laws. Therefore, the authorities competent, in the event of taking a policy decision, to form street, road or expansion of road, is at liberty to initiate appropriate land acquisition proceedings by following due process of law. Contrarily, they cannot personally insist the land owners or any person to gift their land for road projects or any public projects.

4. It is made clear that the local authorities shall not personally emphasize or insist the land owners to gift the land in violation of law. If at all in the layout, roads are already earmarked and encroachments are identified, those encroachments can be removed by following the due process in the interest of public.



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

WEB COPY

5. Thus, the apprehension of the writ petitioners are clarified and all the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(C.K.J.,)

05.06.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

To

1. The State of Tamilnadu,  
Rep. by the Secretary to Government,  
Housing and Urban Development Department,  
Fort St. George, Secretariat,  
Chennai-600 009.

2. The Chennai Metropolitan Development Authority,  
Rep. by its Member Secretary,  
No.1, Gandhi Irwin Road,  
Egmore, Chennai-600 008.

3. Corporation of Chennai,  
Rep. by its Commissioner,  
Ripon Building, Chennai-600 003.

4. The Assistant Engineer,  
Town Planning Approval Section,  
Regional Office South,



W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

Greater Chennai Corporation,  
115, Dr. Muthulakshmi Salai,  
Adyar, Chennai-20.

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Ripon Building, Chennai.

6. The Member Secretary,  
Chennai Metropolitan Development Authority,  
Egmore, Chennai-8.

7. The Sub Registrar,  
office of the Sub Registrar,  
Periamet, Chennai-3.

8. The Assistant Executive Engineer,  
Town Planning Section- Kodambakkam,  
Zone X, Ward 134,  
Greater Chennai Corporation,  
No. 64, NSK Salai,  
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9. The Member Secretary,  
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W.P.Nos.30905 of 2015, 34926 of 2016, 4782 of 2017, 32072 of 2019

**S.M.SUBRAMANIAM, J.**

**and**

**C.KUMARAPPAN, J.**

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