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WP No. 23523 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No. 23523 of 2025

B.K.K.Prem

S/o.B.L.Kumaravel, Akshay Nivas, 1st
Floor, No.4/1, Trust Square Street
Ramalingapuram, Chennai -12.

Petitioner(s)

Vs

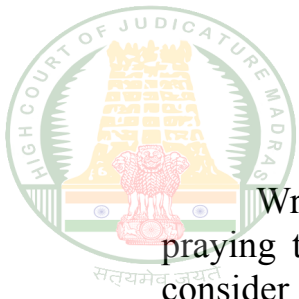
1.The Commissioner
Corporation of Chennai
Rippon Buildings, Chennai.

2.The Asst.Executive Engineer [T.P]
Corporation of Chennai,
Amma Maligai, Ripon Buildings,
Chennai-3.

3.The Executive Engineer [Zone 6],
No.45, SRP Koil Street, Periyar Nagar
Chennai – 82.

4.The Member Secretary,
Chennai Metropolitan Development
Authority, Thalamuthu Natarajan
Building, Gandhi Irwin Road, Egmore,
Chennai 600 008.

Respondent(s)



Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st to 3rd respondents to consider the petitioner's application for planning permission vide No.PPA/WEDC No.6/02222/2025 dated 21.03.2025 and issue planning permission to the petitioner premises at Chennai without insisting to execute a registered Gift Deed road in favour of competent authority.

For Petitioner(s): Mr.P.R.Raman, Senior Advocate
for Mr.T.D.Selvan Babu

For Respondent(s): Mr.S.Gopinathan, St.C.
For R1 to R3
Mr.R.Thamaraiselvan
St.C.for R4

ORDER

Writ petition is filed for a writ of mandamus, directing the respondents 1 to 3, to consider the petitioner's application for planning permission dated 21.03.2025, and to issue planning permission for the petitioner's premises without insisting on execution of a registered Gift Deed for street alignment in favour of the competent authority.

2.The petitioner along with his wife and mother, purchased the property at No.22[11], Medavakkam Tank Road, Ayanavaram, Chennai, measuring an extent of 1104 sq.ft., under a registered Sale Deed dated 07.11.2024. Due to the dilapidated condition of the existing building, the petitioner and his mother applied to the 1st respondent for permission for demolition of the existing building and for construction of a commercial-cum-residential building. The



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petitioner submitted the online application on 21.03.2025, along with the requisite fee and the site plan, leaving an extent of 4.00 M x 15.00 M [60 sq.ft.] for road widening. On 27.03.2025, the 2nd respondent issued an online letter directing the petitioner to produce a Gift Deed for the street alignment portion in favour of the competent authority. The petitioner states that on 20.05.2025, he submitted a reply offering to submit an undertaking, in terms of this Court's order in similar cases. However, the respondents did not respond to the petitioner's representation and therefore, the petitioner filed the above writ petition for the aforesaid relief.

3.The respondents filed a detailed counter stating *inter alia* that whenever development [layout or building] was intended, planning permission was mandatory for such development. The respondents stated that whenever a development fell on a street alignment or road widening as provided in the Master plan, it was mandatory to leave the portion of the land falling under the proposed alignment or road widening. The developer concerned was also required to register a Gift Deed in favour of the Local Body/CMDA for the portion reserved for street alignment or road widening. The respondents further relied on Section 35-A of the Tamil Nadu Town and Country Planning Act, 1971, and the procedure provided therein in support of their aforesaid



submissions.

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4. The respondents filed an additional counter affidavit and submitted that, as per the Second Master Plan for the Chennai Metropolitan Area prepared by the Chennai Metropolitan Development Authority, the street alignment of Medavakkam Tank Road, Ayanavaram was fixed at 24m. The respondents therefore submitted that the planning permission of the petitioner would be processed only after the execution of the Gift Deed by the petitioner to the extent of land required for road widening, I.e, 60 mts. The respondents therefore prayed that the writ petition lacked merit and same deserved to be dismissed.

5. The learned counsel for the petitioner submitted that the insistence on the execution of the Gift Deed for the street alignment portion, in favour of the competent authority, was unlawful, illegal and unjustified, in view of the fact that the competent authority neither notified nor acquired the petitioner's land for road widening purposes. The learned counsel further submitted that the competent authority had not initiated any action in pursuance to the proposal for road widening of Medavakkam Tank Road, Ayanavaram. The learned counsel further submitted that, as a matter of abundant caution, the petitioner had left the area falling under the proposed land alignment, free of



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development, so as to surrender the same for road widening purposes as and when it was acquired, however, subject to reasonable compensation. The learned counsel further submitted that the petitioner was also ready and willing to submit an affidavit of undertaking to the effect that he would not put up any construction in the area falling under road alignment/widening and would execute a Gift Deed, upon payment of just, fair and reasonable compensation as determined by the competent authority. The learned counsel relied on the orders passed by this Court in WP.No.8863/2021 dated 18.08.2021, WP.No.21974/2022 dated 23.08.2022 and Division Bench judgment of this Court in WA.No.3663/2019 dated 05.06.2024, in support of his submissions.

6.The learned counsel for the respondents on the other hand, submitted that the planning permission would be granted, only if the petitioner complied with Rule 35[19] of the Tamil Nadu Combined Development and Building Rules, 2019. The learned counsel therefore, submitted that the writ petition deserved to be dismissed.

7.I heard both the learned counsels and perused the materials placed on record. With the consent of both counsels, the writ petition is taken up for final disposal.



8. Under identical facts, this Court Hon'ble Court in WP.No.8863/2021,

dated 18.08.2021, held as follows:-

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"6. The issue involved in the present case is covered by the earlier order passed by this Court in W.P.No.5790 of 2015, dt.04.03.2015. The relevant portions in the order are extracted hereunder:

"4. There is no dispute that the petitioners are the joint owners of the property. The petitioners have sought for planning permission to put up construction on the said property. A portion of the land measuring 5.85 meters is likely to be acquired for the purpose of road widening. Therefore, the planning authority are insisting the petitioners to give a gift deed.

5. The land in question which is jointly owned by the petitioners has not been acquired so far and there is only a proposal for widening the road. However, the respondents state that there is a proposal for widening the road and it is submitted that a portion of the land measuring 5.85 meters will be acquired.

6. It is seen that under similar circumstances in W.P.No.1259 of 2014, this Court, taking into consideration an earlier order in W.P.No.8541 of 2012 dated 19.07.2012, issued an interim direction subject to the condition that the petitioner therein should give an affidavit of undertaking to the effect that he will not put up any construction in the place earmarked for the



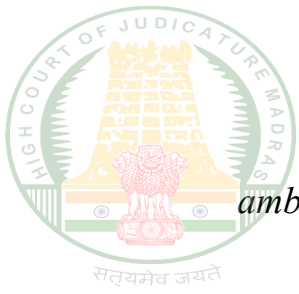
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purpose of road widening and on receipt of the said undertaking, the CMDA and the Corporation of Chennai shall give approval for building plan permission with proper endorsement. Though the said direction is an interim order, there will be a direction, in this writ petition, to the petitioners to undertake not to put up construction in the extent of land which is proposed for road widening. Furthermore, the petitioners shall also undertake that they will not resist the proposal of road widening and hand over the said portion to the appropriate authority for the said purpose. The petitioners will, however, be entitled to compensation for the land to be acquired.

7. In the light of the above, the writ petition is disposed of directing the petitioners to submit an affidavit of undertaking not to put up any construction in the portion earmarked for road widening on their property to the extent of 5.85 meters and keeping the area clear and also undertake to surrender the portion for implementation of road widening work without prejudice to the petitioners- right to claim compensation. If such an affidavit is filed, the respondents shall consider the same and process the application in accordance with the statutory provisions. No costs. Consequently, connected miscellaneous petition is closed.“

7. The facts of the present case squarely falls within the



ambit of the directions issued in the above writ petition.

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8. In the light of the above, this writ petition is disposed of with a direction to the petitioner to submit an affidavit of undertaking not to put up any construction in the portion earmarked for road widening on the property to an extent of 5 feet and keep the area clear and also undertake to surrender the portion for implementation of road widening work in future, without prejudice to the petitioner-s right to claim compensation. If such an affidavit is filed, the respondents shall consider the same and process the application in accordance with law."

9. The said order was followed by another learned Judge of this Court in WP.No.21974/2022, dated 23.08.2022. The Court held as follows:-

"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 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 Division Bench of this Court in W.A.No.3663/2019, dated 05.06.2024, under similar circumstances, held as follows:-

"2. In the present case, the respondents have mainly contended that their property rights are sought to be infringed by the authorities



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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.

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."

11.As the issue in the present writ petition is identical to the facts and the law raised in the above referred cases, I am inclined to allow the writ petition by issuing the following directions:-

i. *[1]The petitioner is directed to submit an affidavit of undertaking, not to put up any construction in an area of 60 sq.m., which is required for road alignment / widening.*

[2]The petitioner shall undertake to surrender the portion of 60 sq.m. for implementation of the road alignment / widening work in future, subject to his right for reasonable and fair compensation.

[3]The respondents shall, upon receipt of the undertaking, open the



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portal for re-submission of the application by the petitioner for planning permission, by dispensing with the execution of the Gift Deed.

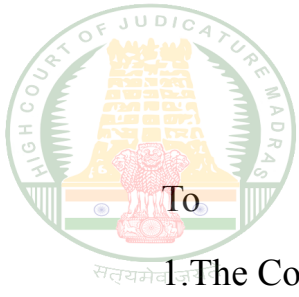
[4]The respondents shall consider the petitioner's application for planning permission on merits and in accordance with law, within a period of two weeks from the date of receipt of the aforesaid undertaking from the petitioner.

12.The writ petition is accordingly allowed, with the aforesaid directions.

However, there shall be no order as to costs.

14-07-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
dsn



To

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