

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2015

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No.16150 of 2015

and

M.P.Nos.1 and 2 of 2015

T.T.Ganesan

...Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.
2. The Executive Engineer/Administrative Officer,
Tamil Nadu Housing Board,
Yercadu Road, Hasthampatti, Salem -7.
3. Government of Tamil Nadu,
rep. by the Commissioner and Secretary to Government
Housing and Urban Development Department,
Secretariat, Chennai - 9.

(R-3 is suo moto impleaded as
per order, dated 17.08.2015).

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for entire records relating to the impugned order passed by the first respondent, in his letter No.Ni.A.2(4)/15404/2008, dated 28.05.2015, and to quash the same, and consequently, to direct the respondents to issue No Objection Certificate to the petitioner in respect of the lands situated in S.Nos.209/2, 209/2F and 209/2B, Muthanampalayam Village, Tiruchengode Taluk, Namakkal District, to the extent of 2.84 acres of land.

For Petitioner

: Mr.C.Prakasam

For Respondents1 & 2

: Mr.R.V.Babu,
Standing Counsel

For Respondent-3

: Mr.R.Rajeswaran,
Special Government Pleader

O R D E R

The petitioner challenges the order passed by the first respondent, dated 28.05.2015, and to direct the first respondent to issue No Objection Certificate to the petitioner in respect of the lands comprised in S.Nos.209/2, 209/2F and 209/2B, Muthanampalayam Village, Tiruchengode Taluk, Namakkal District, measuring an extent of 2.84 acres of land.

2. Heard Mr.C.Prakasam, the learned counsel appearing for the petitioner, Mr.R.V.Babu, learned Standing Counsel for respondents 1 and 2, and Mr.R.Rajeswaran, learned Special Government Pleader for third respondent, and perused the materials placed on record.

3. The facts of the case, which led to the filing of this Writ Petition are as follows :-

i) The lands owned by the petitioner were the subject matter of land acquisition proceedings under the provisions of Land Acquisition Act. The petitioner and others challenged the said acquisition proceedings by filing W.P.No.9984 of 1986, and the said Writ Petition was allowed by this Court, by order, dated 26.11.1996, following the earlier order passed in W.P.No.9792 of 1986, dated 16.11.1996. Aggrieved by the same, the Government as well as the Special Tahsildar, Land Acquisition Officer, Salem, preferred a Writ Appeal, viz., W.A.No.201 of 2005, and the said Writ Appeal was dismissed by the Hon'ble Division Bench of this Court, vide judgment, dated 03.04.2009. Thus, the order passed by the learned Single Judge in W.P.No.9984 of 1986 has become final, thereby, the acquisition of the petitioner's land stood quashed.

ii) It appears that, a Miscellaneous Petition viz. W.A.M.P.No.90 of 2009, was filed by the Government and the Special Tahsildar, in the said Writ Appeal in the month of July, 2009, to condone the delay in filing the Petition for restoration of Appeal, which was dismissed for non-prosecution on 03.04.2009. The said Miscellaneous Petition was not pursued further, and the matter was kept pending. In the meantime, the petitioner wanted to make developments in the property, and hence, he approached the Revenue Officials for grant of planning permission and other requirements, for which, the Revenue Officials insisted on the petitioner to obtain No Objection Certificate from the Tamil Nadu Housing Board. Therefore, the petitioner made a representation, dated 16.12.2014, to the respondent/Housing Board. Since the Board did not consider the representation, the petitioner filed another Writ Petition before this Court, viz., W.P.No.34274 of

2014, which was disposed of on 22.12.2014, by directing the Housing Board to consider the petitioner's representation dated 16.12.2014, within the time frame. As the respondent/Board did not consider the said representation, despite direction issued by this Court, the petitioner approached this Court by way of filing Contempt Petition No.753 of 2015, and after notice in the said Contempt Petition, the respondent/Board passed an order, dated 28.05.2015, and impugning the same, the present Writ Petition is filed.

4. A Counter affidavit is filed by the second respondent/Board, and apart from stating the above facts, there is no other valid reasons given by the respondent/Board to refuse to issue No Objection Certificate to the petitioner. Furthermore, it has to be pointed out that the respondent-Board was not the appellant in W.A.No.201 of 2005, which was dismissed by the Hon'ble Division Bench of this Court, vide judgment, dated 03.04.2009. The appellants therein were the Government and the Special Tahsildar. Therefore, the respondent-Board, being the only the requisitioning body, cannot independently state that they were entitled to refuse to grant NOC on the ground that the Government has filed Miscellaneous Petition, seeking for condonation of delay in restoring the Appeal, which was dismissed for non-prosecution on 03.04.2009. Hence, the reasons assigned by the respondent/Board is wholly unsustainable.

5. Accordingly, the Writ Petition is allowed, the impugned order passed by the first respondent, dated 28.05.2015 is set aside, and the first respondent is directed to issue NOC to the petitioner within a period of six weeks from the date of receipt of a copy of this order. It is made clear that the issuance of NOC is subject to the outcome of the proceedings initiated by the Government in W.A.No.201 of 2005. Consequently, connected Miscellaneous Petitions are closed. No costs.

sd/
ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

sd/ds

To

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Anna Salai,
Chennai - 600 035.
2. The Executive Engineer/Administrative Officer,
Tamil Nadu Housing Board,
Yercadu Road, Hasthampatti, Salem -7.
3. The Commissioner and Secretary to Government,
Government of Tamil Nadu
Housing and Urban Development Department,
Secretariat, Chennai - 9.

+1 CC to MR.R.V.Babu Advocate. SR.NO. 60150
+3 CC to MR.C.Prakasam Advocate. SR.NO. 60209

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CO-PA
JD 06/11/2015



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