

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28792 of 2014

Selvapuram Shanmugarajapuram
Residential Welfare Association,
rep. By its President,
Mr.K.Radhakrishnan,
No.131, Shanmugarajapuram,
Selvapuram North, Coimbatore ...Petitioner

Vs

1. The Government of Tamilnadu,
rep. By the Secretary,
Housing and Urban Development Department,
Fort. St. George, Chennai.
2. The Special Tahsildar,
(Land Acquisition)
Housing Scheme No.1,
Coimbatore - 18
3. The Chairman,
Tamilnadu Housing Board,
Nandanam, Annasalai,
Chennai -35
4. The No.2, Joint Sub Registrar,
Joint sub-Registrar Office,
Raja Street,
Coimbatore - 641 001 ..Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 4th respondent, No.2, Sub-Registrar, Raja Street, Coimbatore to register the documents in respect of the properties of the petitioner covered under S.F.Nos.91 and 92 of Kumarapalayam Village, Coimbatore without insisting No Objection Certificate from the Tamilnadu Housing Board, if presented by the petitioner association or its members.

For Petitioner :Mr.S.Gunalan

For Respondents :Mr.S.Gunasekaran
Government Advocate for R1, R2 and R4

Mr.V.Anandhamurthy for R3

O R D E R

Heard Mr.S.Gunalan, learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate appearing for the first, second and fourth respondents and Mr.V.Anandhamurthy, learned counsel appearing for the third respondent.

2. The petitioner seeks to issue a Writ of Mandamus directing the 4th respondent, No.2, Sub-Registrar, Raja Street, Coimbatore to register the documents in respect of the properties of the petitioner covered under S.F.Nos.91 and 92 of Kumarapalayam Village, Coimbatore without insisting No Objection Certificate from the Tamilnadu Housing Board, if presented by the petitioner association or its members.

3. It is submitted that the issue involved in this writ petition is squarely covered by the earlier decision of this Court in W.P.No.9594 of 2009, wherein identical issue was considered and orders have been passed by this Court on 27.07.2010 and the said order reads as follows:-

Heard the submissions made on either side and perused the materials available on record.

2.The petitioner - Association has filed the present writ petition seeking for a direction to the fourth respondent to register the documents in respect of the properties covered under S.F.Nos.29, 30, 31, 32/2, 37, 38, 39/1 and 39/2 of Kumarapalayam Village, without insisting "No Objection Certificate" from the Tamil Nadu Housing Board.

3.The petitioner - Association states that they purchased lands in the aforesaid survey numbers. However, fourth respondent refused to register the documents, in respect of the aforesaid properties, on the ground that "No Objection Certificate" has to be obtained from the Tamil Nadu Housing Board for registering the documents. It is stated that "No Objection Certificate" was insisted on the ground that those lands were acquired by the Government for the purpose of construction of houses by the Tamil Nadu Housing Board. Under such circumstances, the Tamil Nadu Housing Board was impleaded by this Court on 18.12.2009 as

fifth respondent.

4.It is the case of the petitioner-Association that the land acquisition proceedings to acquire lands in the above survey numbers was questioned before this Court and those proceedings was quashed. Hence, the fourth respondent cannot insist to obtain "No Objection Certificate" from the Tamil Nadu Housing Board for registering the documents.

5.Therefore, the only issue is as to whether the acquisition proceedings relating to the survey numbers mentioned in the writ petition, got quashed by this Court.

6.The learned Government Advocate as well as the learned counsel representing the fifth respondent submits that the acquisition proceedings that was quashed, does not relate to S.Nos.29 and 31. They produced written instructions stating that the land acquisition proceedings relating to other survey numbers got quashed by this Court.

7.In these circumstances, the learned counsel for the petitioner submits that it is suffice if a direction is issued to the fourth respondent to register the documents in respect of the properties that is covered by survey numbers other than S.Nos.29 and 31.

8.The respondents cannot have objection for issuing a direction to the fourth respondent to register documents relating to the properties covered by the survey numbers of the lands, in which, acquisition proceedings got quashed.

9.Though the respondents questioned the maintainability of writ petition at the instance of the Association, in the peculiar facts and circumstances of the case, I have not gone into the same. Accordingly, a direction is issued to the fourth respondent to register the documents in respect of the properties in S.F.Nos.30, 32/2, 37 38, 39/1 and 39/2 of Kumarapalayam Village, Coimbatore, without insisting No Objection Certificate from the Tamil Nadu Housing Board.

10.The writ petition is disposed of with the above direction. No costs.

4. In the light of the above, since the issue is already decided by this Court and the said Writ petition was disposed of and the documents have been registered and the same has also been admitted in the paragraph no.6 of the counter affidavit filed by the 4th respondent, the petitioner is also entitled to the similar direction

and accordingly this Writ Petition is disposed of by directing the 4th respondent to register and release the documents presented by the petitioner for registration within a period of three weeks from the date on which it is presented, subject to the condition that the petitioner complies with the other requirements. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Secretary,
The Government of Tamilnadu,
Housing and Urban Development Department,
Fort. St. George, Chennai.
2. The Special Tahsildar,
(Land Acquisition)
Housing Scheme No.1,
Coimbatore - 18
3. The Chairman,
Tamilnadu Housing Board,
Nandanam, Annasalai,
Chennai -35
4. The No.2, Joint Sub Registrar,
Joint sub-Registrar Office,
Raja Street,
Coimbatore - 641 001.

1 cc to Mr.V.Anandhamurthy ,Advocate, SR.No.7623
1 cc to M/s.S.Gunalan,Advocate, SR.No.7361
1 cc to Government Pleader,Sr.No7540

W.P.No.28792 of 2014

ug(co)

pmk.17.2.2015