

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6537/2015

1.K.Saraswathy
2.M.Vijayalakshmi
3.M.Sandhya Kumari
4.M.Kamalanathan
5.K.Gunasekharan
6.K.Parthasarathy

...Petitioners

Versus

1. The Secretary to Government
Housing and Urban Development
Department, Fort St George,
Chennai 600 009.

2. The Chairman and Managing Director
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus, directing the respondents to consider the petitioners' representation dated 04.06.2011 and direct the respondents to allot the plot to the petitioners under ex-owner category.

For Petitioners : Mr.A.Balamurugan

For R1 : Mr.S.Gunasekaran, GA

For R2 : Mr.V.Ananthamurthy

ORDER

Heard Mr.A.Balamurugan, learned counsel appearing for the petitioners ; and Mr.S.Gunasekaran, learned Government Advocate

accepting notice for the 1st respondent ; and Mr.V.Ananthamurthy, learned counsel accepting notice for the 2nd respondent and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioners have filed this writ petition praying for a direction to the respondents to consider the petitioners' representation dated 04.06.2011 and direct the respondents to allot the plot to the petitioners under ex-owner category.

3.According to the petitioner, the property situated in S.No.145 and 148, measuring an extent of 5 acres, belong to petitioners' paternal forefather, [Late] Andiappa Naicker. The Government has acquired the lands in the year 1995 for the purpose of rehabilitating the landless and poor, by resorting to compulsory acquisition under the provisions of the Land Acquisition Act. Subsequently, the Government in G.O.No.656 dated 31.05.1988 framed a scheme to compensate the erstwhile land owners whose lands were acquired under the scheme. It is stated that the ex-owners are entitled to certain benefits including allotment of lands, employment etc. In somewhat identical circumstances, the other land owners have filed a writ petition before this Court in WP.No.12174/1997 wherein they have sought for a direction to the respondents to allot plots/flats under Ex-owner category in the light of the recommendation given by the Housing Board vide letter No.13/73296/1993 dated 17.02.1994 and also taking note of the Government order in G.O.Ms.No.656 dated 31.05.1988. The said writ petition was disposed of by this Court vide order dated 11.08.1997, holding that it is not inclined to issue a writ of mandamus as prayed for and it was made clear that as and when the Housing Board invite applications under any one of the schemes, it is well open to the petitioners to apply under the ex-owner category, which shall be considered by the respondents under that category and otherwise if the petitioners are eligible, their applications will be considered under preferential in category of ex-owners.

4.In respect of the other land owners, who filed WP.No.4094/1998, this Court issued a direction on 25.03.1998 to pass orders on the representation given by the petitioners therein. The petitioners seek for a similar relief.

5.Learned counsel appearing for the 2nd respondent would submit that sufficient time may be granted to the 2nd respondent to consider the petitioners' representation since the petitioners have come forward with the said representation after several decades, after

acquisition is over and there is no explanation given by the petitioners for having slept over the matter for all these years.

6. In the light of the above submissions and taking note of the facts stated supra, there will be a direction to the 2nd respondent to consider the petitioners' representation and ascertain as to whether the petitioners have any right to claim under the ex-owner category. If the petitioners have any right, then appropriate recommendation shall be made to the 1st respondent or otherwise, an order should be passed and be intimated to the petitioners as to why their representation cannot be considered. The above direction shall be complied and implemented by the 2nd respondent within a period of six weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary to Government
Housing and Urban Development
Department, Fort St George,
Chennai 600 009.
2. The Chairman and Managing Director
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.

1 CC to Mr.V.Ananthamurthy, Advocate SR.No. 13969

1 CC to Mr.A.Balamurugan, Advocate SR.No. 13341

1 CC to the Government Pleader, SR.No. 13584

WP.No.6537/2015

GR (CO)

PSI (20.03.2015)