

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2015

Coram

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

Writ Petition No.7829 of 2015

S.Sureshkumar

...Petitioner

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Housing and Urban Development Department,
Chennai - 600 009.
2. The Tamil Nadu Housing Board,
rep. by its Chairman,
Nandanam, Chennai - 600 035.
3. The Special Tahsildar,
(Land Acquisition)
Housing Scheme - II,
Coimbatore - 541 038.
4. The Executive Engineer &
Administrative Officer,
Tamil Nadu Housing Board,
Tatabad, Coimbatore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to release Plot Nos.37 and 38 measuring an extent of 4800 sq.ft, comprised in S.No.319/2 and 320 situate at Kalapatti Village, Coimbatore North Taluk, on the basis of the report, dated 10.07.2009, filed by the Government in W.P.No.16417 of 1998 etc., which was confirmed by the Hon'ble Division Bench in W.A.No.422 of 2011, to enable the petitioner to obtain patta.

For Petitioner : Mr.A.Bharathy for
Mr.Muthumani Doraisamy

For Respondents 1 & 3 : Mr.RM.Muthukumar
Government Advocate

For Respondents 2 & 4 : Mr.B.Vivekavanan
Standing Counsel
for (Tamil Nadu Housing Board,)

O R D E R

Heard learned counsel appearing for the petitioner as well as the learned Government Advocate for respondents 1 and 3 and Mr.Vivekavanan, learned Standing Counsel for respondents 2 and 4/Housing Board.

2. At the outset, the learned counsel appearing for the petitioner submits that the issue involved in this Writ Petition is no longer res integra, as it is squarely covered by the earlier decision of this Court rendered in W.P.No.9221 of 2015, dated 31.03.2015, in which also, a similar prayer was sought for, and the said Writ Petition was disposed of issuing certain directions. The learned counsel for the petitioner also produced a copy of the said order for perusal of this Court, and prayed that similar direction may be issued in the present case as well. For better appreciation, the operative portion of the order, dated 31.03.2015, is extracted hereunder:-

"4. Insofar as another batch of cases, where re-conveyance was directed to be granted, the Housing Board filed separate writ appeals in WA.Nos.252 to 255/2011 and those appeals were also dismissed, by Judgment dated 16.08.2011 [TNHB Vs. UMA MAHESWARI RAMASAMY AND OTHERS] reported in [2011] 7 MLJ 849. Against the said decision, the TNHB preferred Special Leave Petitions before the Hon'ble Apex Court in SLA [Civil] Nos.6063 to 6066/2012 which were dismissed by the Hon'ble Apex Court, vide Judgment dated 13.04.2012. With these facts, the petitioner has now approached the Tahsildar for issuance of patta. Taking note of the above legal position and the lands having already been excluded and though the petitioner may have been the subsequent purchaser, that will not be a ground to deny the relief to the petitioner. In fact, this issue was also considered by the Division Bench of this Court in UMA MAHESWARI RAMASAMY's case [cited supra], wherein in paragraph 11 of the Judgment, it was held that there can be no difference between the land owner and the

subsequent purchaser and if differential treatment is accorded to such persons who are subsequent purchasers, it would be discriminative. Therefore, the petitioner is entitled for grant of patta in the light of the above legal position.

5. Accordingly, the writ petition is disposed of by directing the petitioner to file appropriate application for grant of patta along with a copy of this order before the concerned revenue Tahsildar and on receipt of such application from the petitioner, the Revenue Tahsildar, shall take note of the above legal position and consider the application for grant of patta and grant the same if there is no other legal impediment within a period of three months from the date of receipt of such application. No costs."

3. The learned Standing Counsel for the respondent/Housing Board as well as the learned Government Advocate for respondents 1 and 3 do not dispute the position, and agree that the Writ Petition can be disposed of on the same lines.

4. In the light of the above, this Writ Petition is disposed of, by directing the petitioner to file appropriate application for grant of patta along with a copy of this order before the concerned Revenue Tahsildar, and on receipt of such application from the petitioner, the Revenue Tahsildar, shall take note of the legal position, and consider the application for grant of patta and grant patta, if there is no other legal impediment within a period of three months from the date of receipt of such application. No costs.

Sd/
ASSISTANT REGISTRAR (CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

sd/ds

To

1. The Government of Tamil Nadu,
rep. by its Secretary,
Housing and Urban Development Department,
Chennai - 600 009.
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(Land Acquisition)
Housing Scheme - II,
Coimbatore - 541 038.
4. The Executive Engineer &
Administrative Officer,
Tamil Nadu Housing Board,
Tatabad, Coimbatore.

+1 CC to MR.Muthumani Doraisamy Advocate. SR.NO. 60653
+1 CC to MR.B.Vivekavanam Advocate. SR.NO. 60771
+1 CC to Govt.Pleader. SR.NO. 61184

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CO-GJ
JD 30/11/2015

सत्यमेव जयते

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