

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.31159 of 2015

&

M.P.No.1 of 2015

A.C.Sridharan

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development Department
Fort St. George Chennai-9.
2. The Managing Director
Tamil Nadu Housing Board
Nandanam Chennai-35.
3. The Executive Engineer /
Administrative Officer
Tamil Nadu Housing Board
E.V.N. Road Erode-9.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned letter of the 1st respondent in Letter No. 17924/LA.3(1)/2013-14 dated 17.06.2015 and quash the same consequently direct the respondents to allot Plot No.R-45B situated at Sampath Nagar Erode-11 to the petitioner as the price fix by taking note of guideline value as fixed by the Registration Department in the year of 2000.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.R.Rajeswaran,
Special Government Pleader for R1

Mr.V.Anandamurthy for R2 and 3

O R D E R

Petitioner has filed this writ petition to quash the order passed by the 1st respondent, in Letter No. 17924/LA.3(1)/2013-14 dated 17.06.2015 and consequently direct the respondents to allot the Plot No.R-45B situated at Sampath Nagar Erode-11 to the petitioner, which was rejected.

2. I have elaborately heard Mr.C.Prakasam learned counsel appearing for the petitioner, Mr.R.Rajeswaran, Spl.G.P, appearing for the 1st respondent and Mr.V.Anandamurthy, learned counsel appearing for the respondents 2 and 3 and perused the entire materials including the counter affidavit filed by the 3rd respondent.

3. The undisputed fact is that the original land owner was one Swamiappa Gounder. The lands were acquired by the Government for a project of the 2nd respondent Board at Erode. The original land owner left behind two sons viz., Chellappa Gounder and Palanisamy Gounder. Petitioner is the grand son of Swamiappa Gounder. The claim of the petitioner is that he is entitled to a plot under ex-owner category and would state that based on his application, the 3rd respondent sent a communication on 30.5.2014, as to whether he is willing to accept plot No. R-45B and the petitioner readily accepted the same. However, ultimately the Government has rejected the petitioner's claim. The reasons for the rejection is that Palanichamy Gounder, son of Swamiappa Gounder i.e the brother of petitioner's father has already been allotted a plot under the ex-owner category.

4. The respondents 2 and 3 are right in contending that each and every legal heir of the original land owner cannot be granted individual plots under the ex-owner category, when admittedly on the date of acquisition there was only one land owner viz., Swamiappa Gounder. Further more, Palanichamy Gounder appears to have filed Writ petition before this Court and ultimately the Hon'ble Division Bench directed orders to be passed based on his request. The case of Palanichamy Gounder is that his brother Chellappa Gounder i.e father of the petitioner has relinquished his share in the property and therefore he became entitled to the compensation as well as a plot under ex-owner category.

5. The petitioner's case is that his father relinquished his right to claim compensation alone on the understanding that Palanichamy Gounder will get the compensation and Chellappa Gounder i.e petitioner's father would get the plot under ex-owner category. This contention cannot be raised by the

petitioner at this belated stage especially when petitioner's father did not make any attempt to agitate such claim. Thus, present attempt of the petitioner is a clear after thought and even assuming that petitioner has got a claim the same can be agitated only against his father's brother Palanichamy Gounder and the same cannot be a ground to challenge the allotment issued in favour of the Planacichamy Gounder by the respondent. Further in the contempt proceedings in Cont.P.No.3393 of 2014 arising out of order passed in W.P.No.32481 of 2013, the petitioner's father viz., Chellapa Gounder has filed a document being a statement which has been recored by the Special Thasildar (Land Acquisition) NHS, Erode dated 29.01.1980, stating that the petitioner's father Chellappa Gounder has relinquished his right over the property.

6. Thus the attempt made by the petitioner is a belated attempt and on the grounds raised by the petitioner the impugned order cannot be interfered with. Accordingly, the writ petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
State of Tamil Nadu
Housing and Urban Development Department
Fort St. George Chennai-9.
2. The Managing Director
Tamil Nadu Housing Board
Nandanam Chennai-35.
3. The Executive Engineer /
Administrative Officer
Tamil Nadu Housing Board
E.V.N. Road Erode-9.

+lcc to Mr.C.Prakasam, Advocate, S.R.No.16763
+lcc to Mr.V.Anandamurthy, Advocate, S.R.No.16608
+lcc to the Government Pleader, S.R.No.16658

Writ Petition No.31159 of 2015
& M.P.No.1 of 2015

KK(CO)
CA(28/03/2016)