

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.11550 of 2013

and M.P.No.1 of 2013

Lenus Kanishtaraj ... Petitioner

vs.

The Tamil Nadu Housing Board,
rep. by its Managing Director,
Anna Salai, Nandanam,
Chennai-35. ... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent herein to issue No Objection Certificate for construction purpose for the petitioner's plot Nos.35 and 36 measuring 1 ground and 2350 sq.ft. respectively comprised in Survey No.632/2 as per Patta Survey No.632/6 of Sholinganallur Village situated in Nedunchelian Street, Sholinganallur, Tambaram Taluk, Kancheepuram District within the time frame as may be fixed by this Court.

For Petitioner : Mr.M.Santhanaraman

For Respondent : Mr.B.Viveka Vannan

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondent herein to issue No Objection Certificate for construction purpose for his plot Nos.35 and 35 measuring one ground and 2350 sq.ft. respectively comprised in Survey No.632/2 as per Patta Survey No.632/6 of Sholinganallur Village situated in Nedunchelian Street, Sholinganallur, Tambaram Taluk, Kancheepuram District, within the time frame.

2. It is the case of the petitioner that he has

purchased Plot Nos.35 and 36 measuring to an extent of one ground and 2350 sq.ft. respectively comprised in Survey No.632/2 as per Patta Survey No.632/6 of Sholinganallur Village situated in Nedunchelian Street, Sholinganallur, Tambaram Taluk, Kancheepuram District under sale deeds dated 28.12.2006 and 11.7.2007 vide document Nos.7536 of 2006 and 4060 of 2007 respectively on the file of Sub Registrar, Neelankarai. The said lands were proposed for acquisition vide notification issued in G.O.Ms.No.454, Housing and Urban Development Department dated 23.5.1990 and draft declaration in G.O.Ms.No.996 of 1991 dated 17.6.1991. The petitioner had challenged the said GO by filing writ petitions in W.P.Nos.10420 to 10424 of 1991 and this Court, by order dated 24.1.1996, set aside the said acquisition notification. As against the said order, the respondent did not prefer any appeal and hence, the said order has become final. The revenue records relating to the said plots stands in the name of the petitioner. When the petitioner approached the Chennai Metropolitan Development Authority for approval of construction, they informed him that he should get No Objection Certificate from the respondent. Hence, the petitioner sent a representation dated 24.9.2012 to the respondent by narrating the entire facts and requested him to grant No Objection Certificate in respect of his plots. On receipt of the same, the respondent directed the petitioner to pay a sum of Rs.1,000/- towards scrutiny charges, which was also paid by the petitioner on 24.9.2012. But, till date, the respondent did not issue No Objection Certificate to the petitioner. Hence, the petitioner has come up with the present petition seeking a direction to the respondent to issue No Objection Certificate for construction purpose for the petitioner's plot Nos.35 and 35 measuring one ground and 2350 sq.ft. respectively comprised in Survey No.632/2 as per Patta Survey No.632/6 of Sholinganallur Village situated in Nedunchelian Street, Sholinganallur, Tambaram Taluk, Kancheepuram District within the time.

3. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that in respect of the very same survey number, No objection Certificate was issued in favour of one K.Francis by Letter No.L.A.I (5)/15018/2015 dated 1.2.2016. Thus, he sought for suitable direction to the respondent herein to issue No Objection Certificate to the petitioner herein.

4. I have heard the learned counsel appearing for the respondent also.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court

directs the petitioner to give a fresh representation to the respondent along with a copy of this order, within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the said representation and pass appropriate orders for issuance of No Objection Certificate to the petitioner for construction purpose, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

sbi

To

The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai-35.

+1 cc to Mr.Vivekavanam, Advocate, sr.12022

W.P.No.11550 of 2013

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kra 09.03.2016

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