

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.11551 of 2013
and M.P.No.1 of 2013

Felix M.Cruz

... 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 No.35 measuring 2050 sq.ft. comprised in Survey No.632/1 as per Patta Survey No.632/1B 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 No.35 measuring 2050 sq.ft. comprised in Survey No.632/1 as per Patta Survey No.632/1B of Sholinganallur Village situated in Nedunchelian Street, Sholinganallur, Tambaram Taluk, Kancheepuram District, within the time frame as may be fixed by this Court.

2. It is the case of the petitioner that he has purchased Plot No.35 measuring to an extent of 2050 sq.ft. comprised in Survey No.632/1 as per Patta Survey No.632/1B of Sholinganallur Village situated in Nedunchelian Street,

Sholinganallur, Tambaram Taluk, Kancheepuram District under a sale deed dated 2.12.2006 vide document No.7333 of 2006 on the file of Sub Registrar, Neelankarai. The said land was 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 plot stand 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 No.35 measuring to an extent of 2050 sq.ft. comprised in Survey No.632/1 as per Patta Survey No.632/1B of Sholinganallur Village situated in Nedunchelian Street, Sholinganallur, Tambaram Taluk, Kancheepuram District, within the time frame.

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

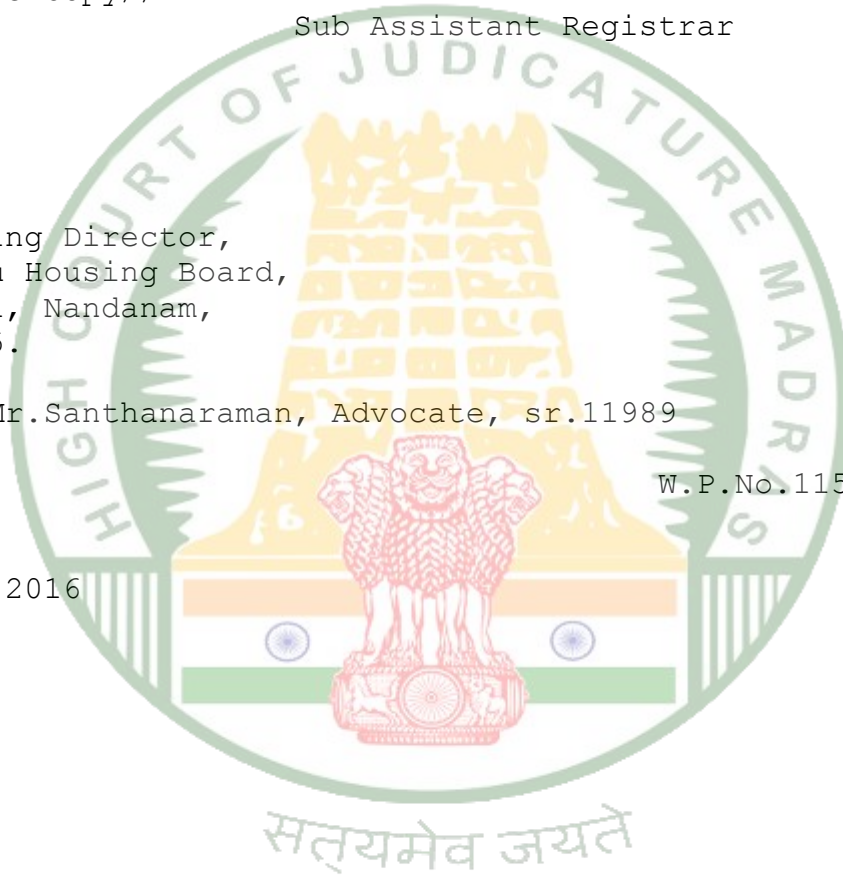
To

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

+1 cc to Mr.Santhanaraman, Advocate, sr.11989

W.P.No.11551 of 2013

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