

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.7065 of 2015

P.Subramani

[PETITIONER]

Vs.

- 1 The Managing Director
Tamil Nadu Housing Board
No.493 Anna Salai
Nandanam, Chennai-600 035.
- 2 The Tahsildar
Omalur Taluk, Omalur,
Salem District.
- 3 State of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development Department
Fort St.George, Chennai-600 009.

[R-3 impleaded as per order dt.18.3.15 in
M.P.No.1/15 in wp.7065/15]

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records relating to the order of rejection passed in Letter No.Ni.A.2(4)/ 38678/02 dated 16.9.2014 on the file of the 1st respondent, quash the same and direct the 2nd respondent to issue patta in respect of the land in S.Nos.83/1E 88/4B and 88/7 of Kotta Goundampatti Vilalge, Omalur Taluk, Salem District to the petitioner.

For Petitioner :Mr.S.Doraisamy

For Respondents :Mr.R.V.Babu - R1
Standing Counsel

Mr.R.Rajeswaran - R2 & R3
Spl.Govt. Pleader

O R D E R

Heard Mr.S.Doraisamy, learned Counsel appearing for the petitioner, Mr.R.V.Babu, learned Standing Counsel appearing first respondent and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents 2 & 3 and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner in this Writ Petition, seeks for quashing the order passed by the first respondent dated 16.09.2014 and for a direction to the second respondent to issue patta in respect of the land in S.Nos.83/1E 88/4B and 88/7 of Kotta Goundampatti Vilalge, Omalur Taluk, Salem District.

3.The undisputed facts are that the lands were the subject matter of land acquisition proceedings under the provisions of the Land Acquisition Act, 1894 and a notification under section 4(1) of the Act was issued in G.O.Ms.No.902 dated 31.05.1991. Thereafter, a declaration was issued under section 6 of the Land Acquisition Act in G.O.Ms.No.455 dated 16.07.1992. The petitioner filed a Writ Petition in W.P.No.1851 of 2012, to quash the declaration issued under section 6 of the Act, in so far as the petitioner's lands comprised in S.Nos.83/1E 88/4B and 88/7 of Kotta Goundampatti Vilalge, Omalur Taluk, Salem District. In the said Writ Petition, counter was filed stating that the declaration issued under section 6 of the Act relating to S.Nos.83/1E3, 88/4B and 88/7, got lapsed. The said averment was placed on record. In respect of the lands covered in the other survey numbers, noting that the award has been passed on 07.09.1995, in respect of those lands, the Writ Petition was dismissed.

4.As the lands covered in three Survey Numbers viz. S.Nos.83/1E3, 88/4B and 88/7, were outside the land acquisition proceeding as the proceedings had lapsed, the petitioner submitted a representation to the Housing Board on 13.02.2013, requesting for issuance of a 'no objection certificate' to enable him to apply for patta, as on the relevant date there was no proposal for acquiring those lands. Since the said representation was not considered, the petitioner filed a writ petition before this Court in W.P.No. 9004 of 2014 and the said writ petition was disposed on 29.04.2014, with a direction to the Housing Board to consider the representation. Pursuant to which the impugned order has been passed.

5.As pointed out earlier, in this Writ Petition, this Court is concerned only about the lands covered in three Survey Numbers viz. S.Nos.83/1E3, 88/4B and 88/7, and in the impugned order, the above facts have been admitted and the only reason

for rejection of the request for 'no objection certificate' is that there is a proposal to issue a fresh notification for acquisition as the lands are required by the Housing Board.

6.It has to be mentioned that when W.P.No.1851 of 2012 was disposed of on 11.12.2014, by holding that the land acquisition proceedings in respect of the lands covered in those three survey numbers have lapsed, all these years, the Government has not taken any steps to issue any fresh notification for acquiring the lands. Therefore, at this stage of the matter, the respondent Board cannot state that there is a proposal and based on such proposal, there is a likelihood of the lands being acquired, is a far fetched plea. Hence, the reason assigned by the respondent Board is not sustainable.

7.Accordingly, the Writ Petition is allowed, the impugned order is quashed and the respondents are directed to issue 'No Objection Certificate' to the petitioner, so as to enable the petitioner to apply for grant of patta before the second respondent. No costs.

rpa

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Managing Director,
Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai-600 035.
2. The Tahsildar, Omalur Taluk, Omalur,
Salem District.
3. The Secretary, State of Tamil Nadu,
Housing and Urban Development Department
Fort St.George, Chennai-600 009.

+ 1 cc to Mr.S.Doraisamy, Advocate Sr 5389

KR/5/2/16

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