

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.27413 of 2016

1. S.Durai Raj
2. V.Nandisamy
3. A.Srinivasan Petitioners

Versus

1. The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.
2. The Executive Engineer,
Thirunelveli Housing Unit,
Tamil Nadu Housing Board,
Thirunelveli. Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct the respondents to issue "No Objection Certificate" to the petitioners in respect to the lands situated at S.No.137/1A1 in Sankarapuri Village, Tuticorin District.

For Petitioners : Mr.V.Ragahavachari
For Respondents : Mr.V.Anandamoorthy for TNHB

ORDER

The present writ petition has been filed seeking a direction to the respondents to issue "No Objection Certificate" to the petitioners in respect to their lands situated at S.No.137/1A1 in Sankarapuri Village, Tuticorin District.

2. The petitioners have purchased some lands to an extent of 6.11 Acres in S.No.137/1A1 in Sankarapuri Village, Tuticorin District vide three different sale deeds dated 04.06.2004, 23.11.2004 and 14.01.2005 and they are in possession and enjoyment of the same.

3. It is the case of the petitioners that earlier, the first respondent issued a Notification under Section 4(1) of the Land Acquisition Act, dated 26.06.1985, to acquire lands to an extent of 41.14 acres, situate at Sankarapuri Village, of which, the lands in S.No.137/1A1 were also included. Challenging the same, the original land owners filed W.P.Nos.10716, 10717 and 10718 of 1988 seeking to quash the said Notification. This Court, by an order dated 25.07.1997, quashed the Notification for acquisition of 41.14 acres. Aggrieved against the said order, the second respondent filed W.A.Nos.1094 to 1096 of 2006. In the said appeal, this Court, by an order dated 08.08.2008, set aside the order dated 25.07.1997 and remitted the matter for fresh consideration. In the mean time, the Parliament had enacted Act 30/13 which came into effect from 26.09.2013 and under Section 24(2) of the said Act, if the physical possession of land continued with the owner or the compensation had not been paid, the acquisition proceeding is deemed to have lapsed.

4. According to the petitioners, the Housing Board have not taken possession of 41.14 acres. Since the physical possession had not been taken and amounts have not been deposited, the acquisition proceeding initiated pursuant to Section 4(1) of the Land Acquisition Act on 26.06.1985 stands lapsed. Therefore, the respondents have to issue "No Objection Certificate" as they do not have semblance of right over the property. In this regard, the petitioners have made representations before the first respondent seeking for the issuance of "No Objection Certificate and also paid scrutiny fee demanded by the Board. But, there is no response from the first respondent on the said representations. Hence, the petitioners are before this Court.

5. The learned counsel appearing for the petitioner submitted that it would suffice, if the first respondent is directed to dispose of the representations of the petitioners, dated 18.07.2016 and 19.07.2016, on merits and in accordance with law, within a specified period.

6. The learned counsel appearing on behalf of the respondents, has no objection for such an order being passed by this Court.

7. In view of the submissions made by the learned counsels appearing on either side, the first respondent is directed to dispose of the representation of the petitioners dated 18.07.2016 and 19.07.2016, on merits and in accordance with law, as expeditiously as possible, not later than two months from the date of receipt of a copy of this order. However, it is made clear that the representations shall be considered by the first

respondent as per the Judgment of this Court.

8. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.
2. The Executive Engineer,
Thirunelveli Housing Unit,
Tamil Nadu Housing Board,
Thirunelveli.

+1cc to Mr.V. Anandha Murthy, Advocate, S.R.No.65340
+1cc to Mr.V. Raghavachari, Advocate, S.R.No.64903

nr(CO)
md(23/11/2016)

सत्यमेव जयते W.P.No.27413 of 2016

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