

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2016

CORAM:

THE HON'BLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.34319 of 2016

1. R.Subramani
2. R.Srinivasan
3. Ramanjiappa
4. Sakkamma

.... Petitioners

Vs

1. The Special Tahsildar,
Town Settlement Office,
Royakottai Road, Hosur
Krishnagiri District
2. The Executive Engineer,
TNHB, Bagalur Road,
Hosur, Krishnagiri District

... Respondents

Prayer:- This Writ Petition is filed to issue a Writ of Mandamus, directing the first respondent to consider the petitioners' representation dated 28.12.2015 for transfer of patta in the name of petitioners in respect of land to an extent of 0.84.0 hectares and 0.29.0 hectares in Survey No.862 and 873/1 respectively situated at Hosur Village and Taluk, Krishnagiri District, without insisting upon NOC from the Tamil Nadu Housing Board within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondent : Mr. P.Chinnadurai,
Govt. Advocate, for R-1

Mr.V.Anandamoorthy - R2

ORDER

This Writ Petition is filed to issue a Writ of Mandamus, directing the first respondent to consider the petitioners' representation, dated 28.12.2015 for transfer of patta in the name of petitioners in respect of land to an extent of 0.84.0 hectares and 0.29.0 hectares in Survey No.862 and 873/1 respectively situated at Hosur Village and Taluk, Krishnagiri District, without insisting upon NOC from the Tamil Nadu Housing Board.

2. This court heard the learned counsel on either side and also perused the materials placed on record.

3. The above Writ Petition has been filed by a group of four persons, alleging that the Respondents are not in possession of the property in question, in spite of the land acquisition proceedings taken way back in the year 1994. According to them, earlier they, along with some persons, filed WP.No.17495 of 2014, claiming benefits under Section 24(2) of the Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Re-Settlement Act, 2013, specifically stating that they have been in possession in spite of the orders passed and the compensation amount has not been received by them nor it has been deposited into the court. Therefore, they would contend that in spite of the earlier orders, the Respondents are still seeking for No Objection Certificate from the Tamil Nadu Housing Board and the said act of the Respondents is not valid and an innocuous prayer has been made to direct the authority not to request for No Objection Certificate from the Tamil Nadu Housing Board.

4. On a careful analysis of the entire records, it is seen from the earlier order, dated 09.12.2014 made in W.P.No.17495 of 2014 that this court has also clearly pointed out that the Petitioners earlier filed W.P.No.253 of 1995 challenging the very same land acquisition proceedings and later on, they withdrew the very Writ Petition itself. Therefore, the land acquisition proceedings underwent unchallenged. After that, they sought for permission from the court to file a petition under Section 48B for reclamation of the land. Once they filed a petition under Section 48B and the land has already been taken over by the Government, they cannot now claim as if they are still in possession of the lands.

5. Now, the Government asked for No Objection Certificate from the appropriate authority. Till date, no document is produced by the Petitioners to show that they are in possession. Further, the representation was sent by the persons, consisting of a group of four persons and not by an individual. Therefore, it is open to the Petitioners to go to the authority and convince the authority that they are in possession and it is for the authority to consider and decide, on merits and it cannot be decided under Article 226 of Constitution of India.

6. With the above observations, this Writ Petition is dismissed. No costs.

srk

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Special Tahsildar,
Town Settlement Office,
Royakottai Road, Hosur
Krishnagiri District
2. The Executive Engineer,
TNHB, Bagalur Road,
Hosur, Krishnagiri District

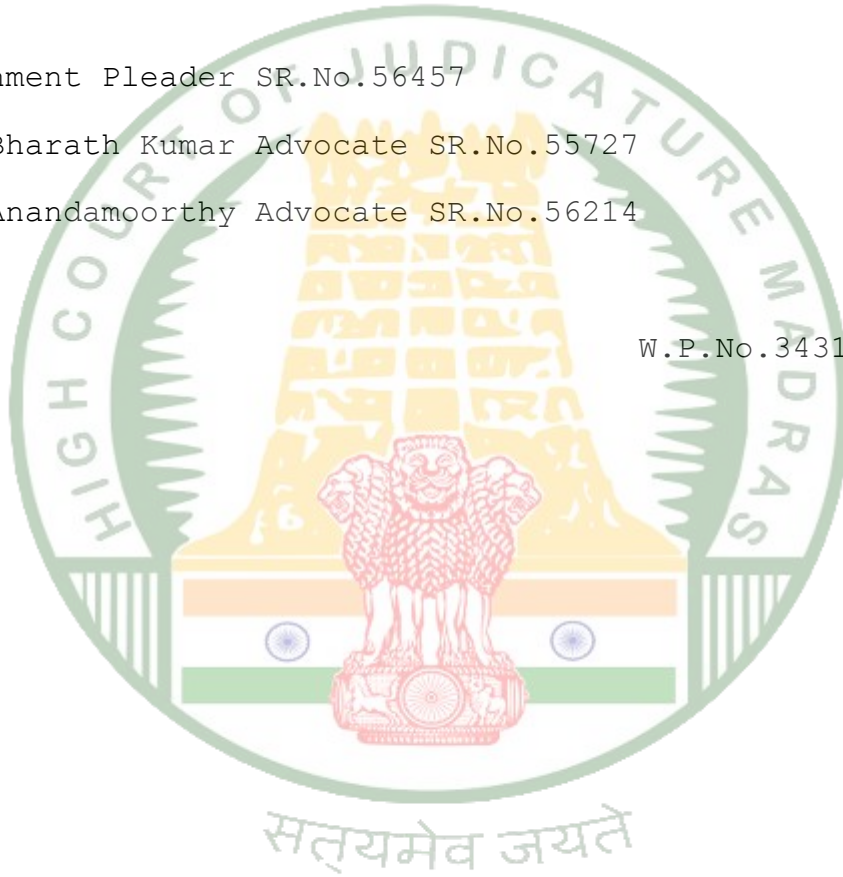
+1 CC Government Pleader SR.No.56457

+1 CC Mr.R.Bharath Kumar Advocate SR.No.55727

+1 CC Mr.V.Anandamoorthy Advocate SR.No.56214

W.P.No.34319 of 2016

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MSI 21/10/2016



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