

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

WP.Nos.36164 & 36165 of 2016

and

WMP.Nos.31119 & 31120 of 2016

S.Sundara Rajan
K.Ganeshan

.. Petitioner in WP.36164/16
.. Petitioner in WP.36165/16

Versus

1.The Tamil Nadu Housing Board,
Rep by its Chairman,
No.493, Anna Salai, Nandhanam,
Chennai-35.

2.The Managing Director,
The Tamil Nadu Housing Board,
No.493, Anna Salai, Nandhanam,
Chennai-35.

3.The Executive Engineer and Administrative Officer,
Salem Housing Division,
Salem 636 008. ... Respondents in both the
Iyyanthiru Maligai Salai Writ Petitions

WP.No.36164 of 2016 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the respondents to consider the representation of the petitioner dated 11.03.2016 on merits and dispose of the same within a period to be fixed by this Hon'ble Court by issuing no objection certificate in respect of Survey Nos.83/4B, 88/1, 88/2, 89/2B, and 81/2B in Mitta Iyyamperumampatti Village, Salem Taluk, Salem District, free from any land acquisition proceeding in favour of petitioner.

WP.No.36165 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus to direct the respondents to consider the representation of the petitioner dated 04.04.2016 on merits and dispose of the same within a period to be fixed by this Hon'ble Court by issuing no objection certificate in respect of Survey Nos.89/2A in Mitta Iyyamperumampatti Village, Salem Taluk, Salem District, free from any land acquisition proceeding in favour of petitioner.

For R1 and R2

: Mr.R.V.Babu
in both WPs

COMMON ORDER

These Writ petitions have been filed by the petitioners for issuing a Writ of Mandamus to direct the respondents to consider the representation of the petitioners dated 11.03.2016 and 04.04.2016 respectively on merits and dispose of the same within a period to be fixed by this Court by issuing No Objection Certificate in respect of the lands in Survey Nos.83/4B, 88/1, 88/2, 89/2B, 81/2B and 89/2A respectively in Mitta Iyyamperumampatti Village, Salem Taluk, Salem District, free from any land acquisition proceeding in favour of the petitioners.

2. Heard the learned counsel for the petitioners as well as the learned counsel for the respondents 1 and 2 and perused the materials available on record.

3. According to the petitioners, they are the owners of the aforesaid lands having acquired the same in a partition made among their family members and the partition deed was also registered before the concerned Sub-Registrar. According to the petitioners, the above said lands owned by them, along with other lands, have been subjected to land acquisition proceedings, however, the land acquisition proceedings could not be finalised due to various reasons and an award could not be passed within the time stipulated under Section 11-A of the Land Acquisition Act. In spite of the same, the respondents refused to issue No Objection Certificate in favour of the petitioners, hence, the present writ petitions.

4. The learned counsel for the petitioners brought to the notice of this Court that challenging the very same acquisition proceedings, the other land owners have filed WP No. 12846 of 1984 before this Court. When the writ petition was taken up for hearing, the proceedings in RCO No.38/87 dated 22.01.1990 of the Special Tahsildar (Land Acquisition), Neighbourhood Scheme, Salem was produced before this Court wherein it was stated that since the crucial period for passing of the award, as contemplated under Section 11-A of the Land Acquisition Act (Amended Act, 1984), has lapsed, the passing of an award would not arise. By placing reliance on the above communication of the Special Tahsildar (Land Acquisition), Neighbourhood Scheme, Salem, the learned counsel for the petitioners would contend that since the period within which the award has to be passed itself has lapsed, there is no impediment for the respondents to issue No Objection Certificate to the petitioner.

5. The learned counsel for the petitioners also brought to the notice of this Court the proceedings of the Managing Director of Tamil Nadu Housing Board bearing reference Lr.No.LA (II)-4/72253/04 dated 18.07.2013 wherein reference was made to the order passed by this Court on 03.02.2007 in WP No. 28878 of 2004 and the order of dismissal of Special Leave Petition dated

23.04.2012 passed in SLP No. 7656 of 2009 on the file of Honourable Supreme Court of India. Reference was also made to the dismissal of the order dated 23.04.2013 in Review Petition (Diary No.5447/2013-Civil No.462/2013) and the contempt petition No. 59 of 2013 filed by one Mr. Karthe, one of the land owners. After referring to the above proceedings, the Managing Director of the Tamil Nadu Housing Board, has stated that "in accordance with the Supreme Court Judgement above, no Objection Certificate is hereby issued for the lands in Mitta Ayyamperumalpatti Village, Salem District." Therefore, the learned counsel for the petitioners reiterated that there is no impediment for the respondents to issue No Objection Certificate in favour of the petitioners. In any event, the petitioners have made representations but the same has not been considered so far. In the light of the fact that the acquisition proceedings itself lapsed, the learned counsel for the petitioners seek for issuance of appropriate direction to the respondents.

6. Mr. R.V. Babu, learned counsel accepts notice on behalf of the respondents 1 and 2 and would state that there is no objection for the respondents 1 and 2 for considering the representations of the petitioners and to pass orders thereon on merits and in accordance with law.

7. I have considered the submissions of the counsel for both sides. The Special Tahsildar (Land Acquisition), Neighbourhood Scheme, Salem in his proceedings in RCO No.38/87 dated 22.01.1990 has clearly stated that the period for passing of the award, as contemplated under Section 11-A of the Land Acquisition Act (Amended Act, 1984), has lapsed and the passing of an award would not arise. A copy of this proceedings dated 22.01.1990 was filed before this Court, in reference to WP No. 12846 of 1984, which was filed by similarly placed person like the petitioners, whose land was also subjected to acquisition proceedings. Thus, it is evident that acquisition proceedings have been initiated against the lands of the petitioners, however, it was not completed by passing an award as the crucial time has lapsed. Thus, at this stage, the acquisition proceedings cannot be put against the petitioners herein so as to deny them the No Objection Certificate inasmuch as there is no possibility to pass an award in the land acquisition proceedings initiated by the respondents against the lands of the petitioners. Further, similar other writ petition in WP No. 28874 of 2004 was filed before this Court challenging the acquisition proceedings and it was allowed by this Court on 03.02.2007. The Special Leave Petition No. 7656 of 2009 preferred thereagainst was dismissed by the Honourable Supreme Court on 23.04.2012. The Review Petition filed by the State also was dismissed on 23.04.2013. Therefore, one of the petitioners therein in WP No. 28875 of 2014 namely Mr. M. Karthe has filed a Contempt Petition No. 59 of 2013. When the Contempt Petition came up for hearing before this Court, the letter of the Managing Director of Tamil Nadu Housing Board bearing reference Lr.No.LA(II)-4/72253/04 dated 18.07.2013 was produced before this Court. In the said letter, it was specifically stated as follows:-

"In accordance with the Supreme Court Judgement above, no Objection Certificate is hereby issued for the lands in Mitta Ayyamperumalpatti Village, Salem District.

S.No. Acres)	Survey No.	Extent (in
1.	52/1	0.66
2.	52/2	0.01 1/2
3.	52/3	0.01
4.	52/4	0.25
5.	52/5B	0.59
6.	52/5C	1.09 1/2
7.	52/5D	0.44 1/2
8.	52/5E	0.05
9.	52/5DF	0.76 1/2
10.	52/5G	0.22 1/4
11.	52/6	0.05
12.	52/7	0.07 1/2
13.	52/8	0.40 3/4
14.	52/9	0.19 1/2
Total		4.831 1/2 Acres

8. Thus, it is evident that in connection with similar other lands for which also Land Acquisition Proceedings have been initiated along with the lands of the petitioners, No Objection Certificate was ordered to be issued by the Managing Director of the Tamil Nadu Housing Board as the acquisition proceedings had lapsed. In such view of the matter, I am inclined to issue a Mandamus directing the respondents to accept the claim of the petitioners for issuance of No Objection Certificate in accordance with law. Accordingly, the respondents are directed to accept the representation of the petitioners for granting No Objection Certificate in their favour in tune with the earlier order dated 03.02.2007 passed in WP No. 28878 of 2004 and the proceeding of the Managing Director of Tamil Nadu Housing Board bearing reference Lr.No.LA (II)-4/72253/04 dated 18.07.2013 and to pass orders therein within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, both the Writ Petitions is disposed of . No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1.The Chairman,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandhanam,
Chennai-35.

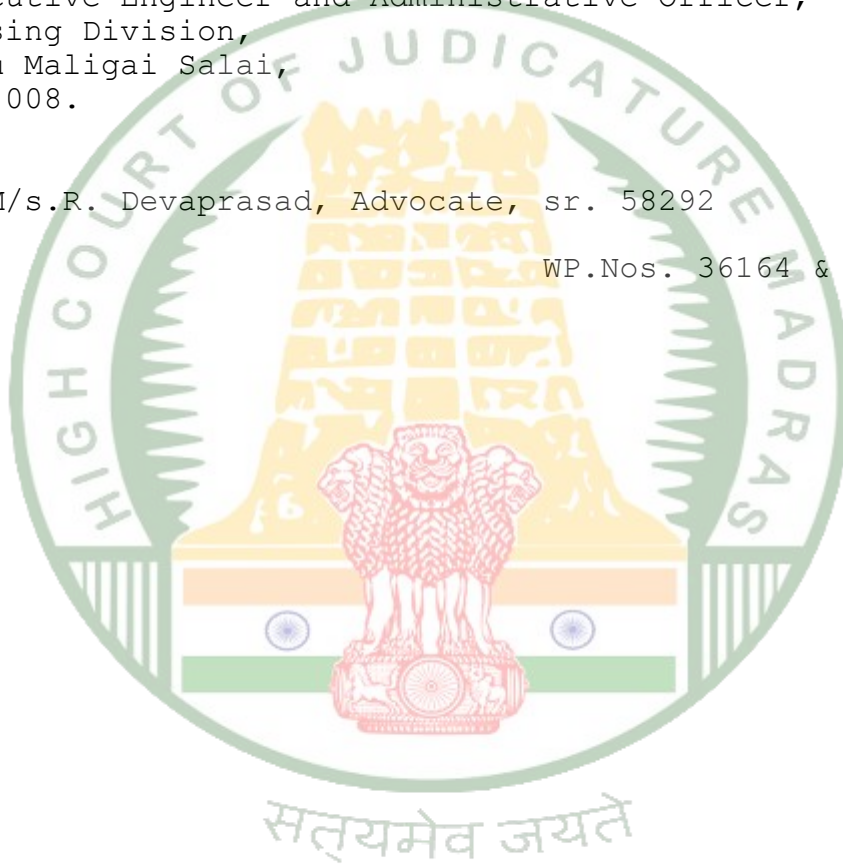
2.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandhanam,
Chennai-35.

3.The Executive Engineer and Administrative Officer,
Salem Housing Division,
Iyyanthiru Maligai Salai,
Salem 636 008.

2 ccs to M/s.R. Devaprasad, Advocate, sr. 58292

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