



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 11.07.2016

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WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)Nos.16128 & 16129 OF 2015

W.P(MD)No.16128 OF 2015:

1.J.Gnanadurai
2.J.Jeyaraj
3.J.Asir Chelliah ..Petitioners
.vs.

1.The Tahsildar,
Madurai North Taluk,Madurai District.
2.The Tamil Nadu Housing Board,
Madurai Housing Unit,
Rep.by its Executive Engineer &
Administraive Officer,
Ellis Nagar, Madurai. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to issue patta to the petitioners for the land measuring Western 1 Acre 33 Cents in Survey No.28/4B and Survey No.28/4C1, Thathaneri Village, Madurai North Taluk, Madurai District and to pass further orders as this Court may deem fit and proper.

W.P(MD)No.16129 OF 2015:

1.Paripooranam
2.Manoranjitham
3.Arul Annanthai
4.Esther Rani ..Petitioners
.vs.

1.The Tahsildar,
Madurai North Taluk,Madurai District.
2.The Tamil Nadu Housing Board,
Madurai Housing Unit,
Rep.by its Executive Engineer &
Administraive Officer,
Ellis Nagar,
Madurai. ..Respondents.



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to issue patta to the petitioners for the land measuring Eastern 40 Cents in Survey No.28/4B and Survey No.28/4C1, Thathaneri Village, Madurai North Taluk, Madurai District and to pass further orders as this Court may deem fit and proper.

For Petitioners
in both WPs :Mr.T.R.Jeyapalam

For Respondents
in both WPs :Mr.S.Kumar
Addl.Govt.Pleader for R1.

: Mr.S.Nagarajan for R2

COMMON ORDER

The facts in both cases are not in dispute that the petitioners are the lawful owners of their respective properties.

2. It appears that the Tamil Nadu State Housing Board issued a notification in G.O.R.No.41, Housing Department dated 30.01.1973 under Section 4 (1) of the Land Acquisition Act, 1894 and decided to acquire the lands for Madurai North Neighbourhood Land Development Scheme. Though the notification under Section 4(1) of the vide G.O.R.No.41, Housing, dated 30.01.1973, was issued and subsequently, a declaration under Section 6 of the land acquisition Act, was issued vide G.O.Ms.No.353, Housing dated 11.04.1974, the father of the petitioners had filed a W.P.No.9275 of 1982 challenging the declaration under Section 6 of the Act and thereafter, filed another W.P.No.15882 of 1994 challenging the notification under Section 4(1) of the Act. Since both the writ petitions were allowed and the land acquisition proceedings were quashed, the petitioners, as legal representatives of their father, are entitled to exercise their right of ownership.

3. It appears that the revenue records got transferred in the name of the Tamil Nadu Housing Board, pursuant to the acquisition proceedings issued by them. However, despite quashing of acquisition proceedings by this Court in the earlier writ petitions, the revenue records are not corrected though the petitioners made a request in that regard. These facts are not disputed by the second respondent in the counter affidavit filed by them.

<https://hcservices.courts.gov.in/hcservices/> the only contention of the Housing Board is that they have a proposal to acquire the lands and their request for acquisition of land for the scheme is also pending consideration



before the Department. This cannot be a valid objection to restore the revenue records pertaining to the land in favour of the petitioners. Since the land acquisition was never completed, the mutation of revenue records in favour of the second respondent itself is illegal.

5. Hence, this Court is inclined to allow the writ petitions and the first respondent is directed to issue patta to the petitioners for the land measuring in Western 1 Acre 33 Cents in Survey No.28/4B and Survey No.28/4C1, Thathaneri Village, Madurai North Taluk, Madurai District and in Eastern 40 Cents in Survey No.28/4B and Survey No.28/4C1, Thathaneri Village, Madurai North Taluk, Madurai District, after holding of a formal enquiry as to the identity of parties with reference to the earlier order of this Court in W.P.Nos.9275 of 1982 and 15882 of 1994 **(*)within a period of four weeks from the date of receipt of a copy of this order.** No costs.

Sd/-

Assistant Registrar(CS-II)

**Corrected as per th order of this
court dated 18.8.2016**

/TRUE COPY/

Sub Assistant Registrar

To be substituted to the order already despatched.

To

- 1.The Tahsildar,
Madurai North Taluk,
Madurai District.
- 2.The Executive Engineer &
Administrative Officer, Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar, Madurai.

+2cc to Mr.T.R.JEYAPALAM, ADVOCATE IN SR.No. 36084, 36085

+2cc to M/S.S.NAGARAJAN, ADVOCATE SR NO: 35695, 45694

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 35809

JA-SS-2-01.09.2016/3P:8c

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11.07.2016