

IN THE HIGH COURT OF JUDICATURE AT MADRAS

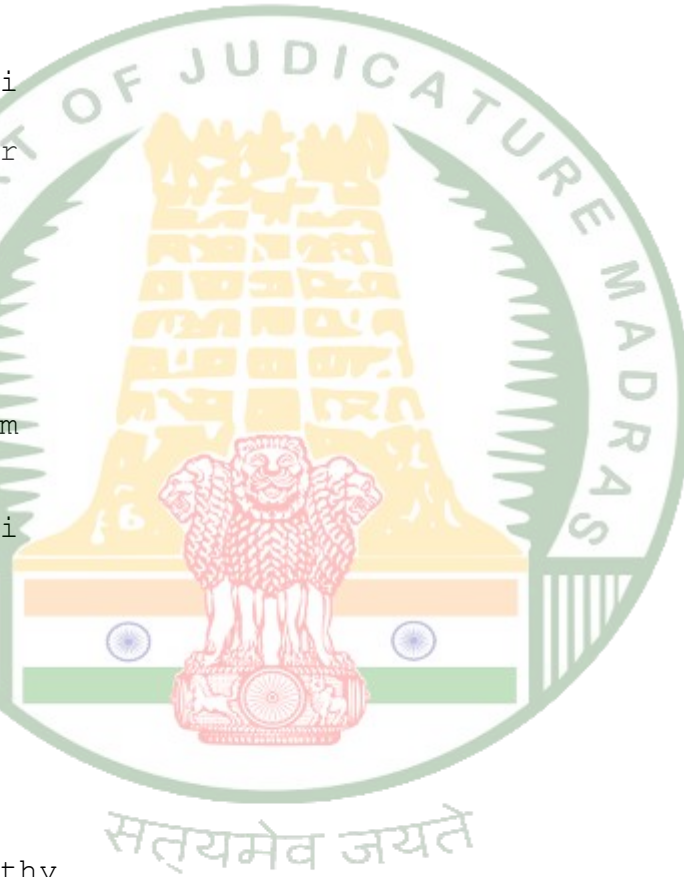
DATED: 28.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

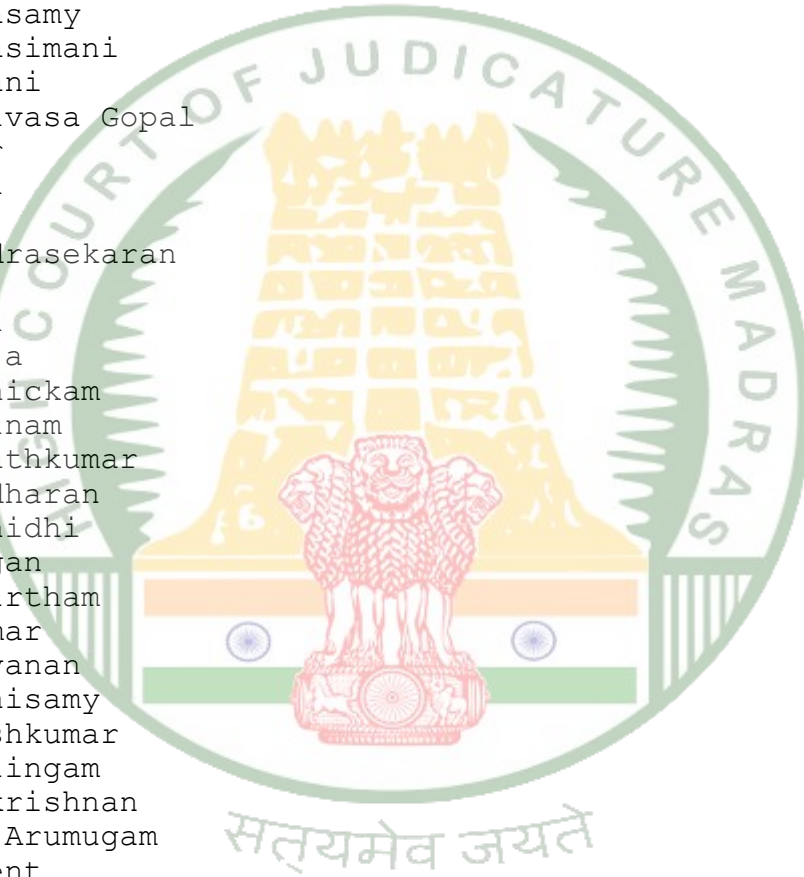
W.P.No.18821 of 2016

1 Satharam
2 Seetharam
3 A.Thiruppathi
4 A.Subbulakshmi
5 G.Arthi
6 P.S.Sajivkumar
7 K.Kanthzhi
8 M.Minnyappan
9 M.Arumugam
10 K.Selvi
11 K.Durgadevi
12 M.S.Susheela
13 R.Saraswathi
14 R.Subramaniam
15 Sureshkumar
16 C.Venkatesan
17 S.Dhanalakshmi
18 V.Selvaraj
19 M.Muniyappan
20 R.Palanisamy
21 R.Murugesan
22 C.Bhaskaran
23 D.Chandran
24 J.Ramuthai
25 K.Neema
26 K.Murugesan
27 S.Krishnamoorthy
28 K.Velusamy
29 K.Perumal
30 A.Thiruppathi
31 G.Muneeswari
32 Azhaguvel
33 P.Krishnarajan
34 S.Anbuselvi
35 P.Rangadurai
36 S.Baby
37 K.Sinduja
38 Marudhachalam
39 S.Rajalakshmi



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40 K.Ramakrishnan
41 K.M.Mani
42 G.A.Surender
43 S.Muthusamy
44 K.M.Sivakumar
45 J.Chitra
46 D.Yuvaraja
47 G.Parimalam
48 Somasundaram
49 P.Ravi
50 R.Palanisamy
51 R.Harikeshmeena
52 S.Periasamy
53 C.Thulasimani
54 Subramani
55 B.Seenivasa Gopal
56 K.Kumar
57 N.Gowri
58 Athena
59 R.Chandrasekaran
60 Nagaraj
61 Rukmani
62 S.Saroja
63 Rajamanickam
64 R.Rathinam
65 D.Sampathkumar
66 B.Giridharan
67 D.Dayanidhi
68 V.Murugan
69 A.P.Amirtham
70 M.K.Kumar
71 S.Saravanan
72 K.Palanisamy
73 M.Sureshkumar
74 A.Sivalingam
75 T.Balakrishnan
76 Jyothi Arumugam
77 T.Vincent
78 Premalatha
79 S.Maruthamuthu
80 M.Savithri
81 D.Periyasamy
82 D.Saraswathy
83 M.Balasubramaniam
84 A.Rajagopal
85 M.Bhagiyam
86 C.Ganeshankar
87 P.Kumaresan
88 D.Maheswari
89 Kalavathi



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90 D.Appaswamy
91 Renukadevi
92 S.Jothimani
93 Selvamani
94 M.Ramasamy
95 G.Mohanraj
96 P.Veerassamy
97 R.Jothipaul
98 A.Arumugham
99 T.Arumugham
100 K.Palaniyammal
101 K.Natarayan
102 G.Balakrishnan
103 T.Gopalakrishnan
104 P.Sethumadhavan
105 N.Soundra Priya
106 R.Nandagopal
107 S.Velumani
108 R.Ghanthi ... Petitioners

Vs

- 1 The State of Tamil Nadu
Rep. by its Secretary to Government
Housing and Urban Development
Department Fort St.George
Chennai-600 009.
- 2 The Tamil Nadu Housing
Board Rep.by its Managing Director
Nandanam Chennai-35
- 3 The Special Tahsildar
(Land Acquisition) Tamil Nadu Housing Board
Tatabad Coimbatore-12. .. Respondents

सत्यमेव जयते

Writ petition filed under Article 226 of The Constitution of India praying for the issuance of a directing the respondents particularly the 2nd respondent Tamil Nadu Housing Board Chennai 35 to grant the petitioners herein N.O.Cs. in respect of the petitioners plots situate in S.F. No. 114 115(4) (5) (6) 116 146 (1&2) and 118 in Vilankurichi Village Coimbatore District consequent upon quashing Sec. 4 (1) Land Acquisition Act proceedings in G.O.Ms.864 Housing and Urban Development Department dated 27.5.1991 in W.P. No. 17524/1992 dated 10.11.2000 and to consequently to show in the Revenue and other records that the lands have been released for Land Acquisition Proceedings.

For Petitioner .. Mr.K.Radhakrishnan
for Mr.K.Parameswari

For Respondents .. Mr.R.A.S.Senthilvel,
Addl. Govt. Pleader for R1 & R2
Mr.Vivekavanana for R3

ORDER

This is the second round of litigation initiated by the petitioners who have purchased small plots of land from the original owner, against whom, proceedings has been initiated in G.O.Ms.No.864 Housing and Urban Development Department dated 27.05.1991, decades ago. It appears that the said proceedings was challenged on the premise that though the declaration issued in G.O.Ms.No.514 Housing and Urban Development Department dated 10.08.1992 speaks about the name of the original owner, it was not preceded by an enquiry. The writ petition filed in W.P.No.17524 of 1992 was allowed on 10.11.2000 in the following manner:

"3.Even though Mr.G.Sankaran, learned Government Advocate strongly contends that the petitioner is not entitled to seek to quash the notification issued under Section 4(1) of the Act made in G.O.Ms.No.864 Housing and Urban Development Department dated 27.05.1991, it is not in dispute that the Government, now, cannot proceed with the impugned acquisition proceedings in pursuance of the notification dated 27.05.1991 under Section 4(1) of the Act, after a lapse of nine years, which requires me to quash the notification issued under Section 4(1) of the Act, after a lapse of nine years, which requires me to quash the notification issued under Section 4(1) of the Act made in G.O.Ms.No.864 Housing and Urban Development Department dated 27.05.1991 and accordingly the same is quashed."

2.Now, the petitioners, who have purchased the lands in the year 2012 and thereafter, have come forward to file this writ petition, seeking a direction to the second respondent to issue No objection certificates.

3.Learned counsel appearing for respondents 1 and 2 would submit that as against the order dated 10.11.2000 passed in W.P.No.17524 of 1992, an appeal has been preferred in the year 2002 in W.A.SR.No.10748 of 2002. The said matter could not be numbered as the original owner died and therefore, it has been posted before the Registry for bringing the legal representatives of the original owner on record.

4.This Court is afraid that the said submission cannot be

accepted. The final order was passed on 10.11.2000 by this Court. it appears that the respondents filed the appeal with delay which is a general situation in most of the cases. The matter did not rest there. No steps have been taken to bring the application for hearing and get the delay condoned for nearly 15 years. If the respondents knew very well about the death of the original owner, nothing prevented them from taking appropriate steps to bring on record the legal representatives at an appropriate stage. There is lethargy at every stage. The sale deeds executed by the original owner or their representatives in favour of the petitioners cannot be found to be faulted with as there is nothing on record to show that they were aware of the appeal filed with condonation of delay by the respondents. Thus, looking from any perspective, this Court is of the view that the respondents do not have either law or equity in their favour as against the petitioners.

5. Accordingly, this Court is constrained to allow this writ petition. Accordingly, the writ petition is allowed. Consequently, the second respondent/Housing Board is directed to issue No Objection Certificates to the petitioners within a period of eight weeks from the date of receipt of a copy of this order. The Housing Board cannot take a ground that it was not a party to the earlier proceedings. Suffice it to state that even it has not taken any steps to get themselves impleaded in the proceedings or made any attempt to take possession either from erstwhile vendor of the petitioners or from them over the years. However, this order is passed without prejudice to the pendency of the application filed for condonation of delay. No costs.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-600 009.

2. The Managing Director,
The Tamil Nadu Housing Board,
Nandanam Chennai-35.

3.The Special Tahsildar (Land Acquisition),
Tamil Nadu Housing Board
Tatabad Coimbatore-12.

+5cc to Mr.K. Parameshwari, Advocate, S.R.No.19154
+1cc to Mr.B. Vivekavanam, Advocate, S.R.No.19739

gr(CO)
md(03/04/2017)

W.P.No.18821 of 2016



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