

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3536 of 2011

Govarthanan Mohanakrishnan,
Rep by Power of Attorney G.Thamarabarani,
C.S.2, Chinnakrishna Tower,
168, MTH Road, Villivakkam,
Chennai 600 049.

.. Petitioner

Vs.

1) The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035

2) The Tahsildar,
Sholinganallur Taluk,
Sholinganallur 600 119

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to issue No Objection Certificate in respect of an extent of 1920 sq. ft. in Plot No.19 comprised in S.No.634/1 and S.No.635/1, now sub divided as S.No.635/1, No.155, Shozhinganallur and situated in MMDA approved layout in PPL/LO 220, dated 22.09.1989 of the petitioner so as to enable the 2nd respondent to give patta in the name of the petitioner for the above plot.

For Petitioner : Mr.N.Krishna Kumar
For 1st Respondent : Mr.B.Viveka Vanan
For 2nd Respondent : Mr.R.Venkatesh
Government Advocate

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O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the 1st respondent to issue 'No Objection Certificate' in respect of an extent of land measuring 1920 sq. ft. in Plot No.19 comprised in S.No.634/1 and S.No.635/1, now sub divided as S.No.635/1, at No.155, Shozhinganallur, thereby enabling the 2nd respondent to issue patta in his name in respect of the said plot.

2. According to the petitioner, Plot No.19 in Survey Nos.634/1 and 635/1 in approved Layout Nos.205/88 and 220/89, dated 22.09.1989 was sold to his vendor S.R.Sampathkumar, by a registered sale deed, dated 03.05.1991. The said two layouts with larger extent of adjoining properties were sought to be acquired for forming neighbourhood Housing colony by the Government through the Tamil Nadu Housing Board by issuing notification under Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.454, Housing and Urban Development, dated 23.05.1990 and declaration under Section 6 of the Act in G.O.Ms.No.996, Housing and Urban Development, dated 17.06.1991. A group of land owners in the above two approved layouts, challenged the land acquisition proceedings before this Court by filing W.P.Nos.10420, 10421, 10422, 10423, 10424, 10653 of 1991 and W.P.Nos.10051, 10588, 11179 and 16797 of 1993, batch of cases and a Division Bench of this Court, by a common order dated 24.01.1996, quashed the entire acquisition proceedings in respect of the above two layouts.

3. After seven years of the said order of this Court, the petitioner purchased Plot No.19 situated in Survey Nos.634/1 and 635/1 in Layout No.PPO 200, measuring an extent of 1920 sq. ft. from his vendor viz. S.R.Sampath Kumar vide registered Sale Deed, dated 11.12.2003. The grievance of the petitioner is that when the Revenue authorities have issued Patta No.3463, dated 25.11.2003 in favour of his vendor, his representation dated 28.12.2010 to the 2nd respondent/Tahsildar seeking change of patta in his favour, is not being considered and that the 2nd respondent is prolonging the matter by insisting the petitioner to get 'No Objection Certificate' from the 1st respondent. Though the petitioner made a representation to the 1st respondent on 03.02.2011 to issue 'No Objection Certificate' to his vacant plot and also paid necessary fee in that regard, the officials of the 1st respondent informed him to approach this Court for appropriate remedy.

4. Learned counsel for the petitioner submitted that the street, where the petitioner's vacant plots are located, is fully furnished with villas and buildings and there is neither acquisition nor any legal impediment for approving the building plan by the 1st respondent. He contended that the officials of the Tamil Nadu Housing Board, without verifying the order dated 24.01.1996 passed by this Court, have taken a mistaken view in the recent past that the lands in the two CMDA approved layouts were acquired by the Government. Hence, he pleaded grant of change of patta in favour of the petitioner.

5. Learned counsel appearing for the 1st respondent/Tamil Nadu Housing Board, submitted that a Division Bench of this Court had already passed an order dated 24.01.1996 with regard to the acquisition that took place in the year 1991 and that the property in question, which is said to have been devolved upon the petitioner, is not true and that the earlier circular of acquisition proceedings to the extent of the land in question, was not quashed. It is his contention that though the petitioner has produced necessary documents in respect of the sale of the property in question from one S.R.Sampath Kumar to him, he could not establish as to how the title in respect of the said property passed on from the original owner, viz. S.N.Sundaramoorthy to S.R.Sampath Kumar.

6. According to the learned counsel appearing for the 1st respondent, though, similarly placed persons have approached this Court by filing Writ Petitions, challenging the Circulars vide G.O.Ms.No.454, Housing and Urban Development, dated 23.05.1990, and Section 6 declaration in G.O.Ms.No.996, Housing and Urban Development, dated 17.06.1991, the relief has to be restricted only to the petitioners and not to other owners of the land in question. He contended that when there is no interim order granted in favour of any of the owners in Plot No.19, the petitioner is not entitled to any relief, muchless the relief sought in this Writ Petition.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. It is not in dispute that the petitioner purchased the property in question from one S.R.Sampath Kumar vide registered Sale Deed, dated 11.12.2003 and that the Revenue authorities had also issued Patta No.3463, dated 25.11.2003 in favour of his vendor. While the petitioner seeks NOC from the 1st respondent/Housing Board in respect of the Plot in question, the case of the respondents is that when the subsequent owners or any other person has not challenged the insistence of obtaining 'No Objection Certificate' from the Tamil Nadu Housing Board, they will not be entitled to any relief and it cannot be passed on to subsequent owners.

9. Moreover, just because the vendor has been granted patta, it will not give him any right of title to the property. Patta is only a document to show that the land is owned by the person concerned. In the case on hand, relief has been granted only to those who approached this Court and S.N.Sundara Murthy, the original owner of the land in question, at no point of time, had challenged the land acquisition proceedings.

10. For better appreciation of the case, relevant portion of the order dated 24.01.1996 passed in W.P.No.10420 of 1991, batch of cases, is extracted hereunder:

"The writ petitions are allowed. The notification in G.O.Ms.No.454, Housing and Urban Development, dated 23rd May 1990 and G.O.Ms.No.996, Housing and Urban Development dated 17.06.1991 are quashed in so far as the lands of the petitioners in these writ petitions are concerned. There will be no order as to costs."

11. Hence, this Court is of the view that the relief sought by the petitioner, as such, cannot be granted. But, the disposal of this writ petition is not a bar for the petitioner to establish his claim before the authorities concerned and if there are any subsequent proceedings, it may be brought to the attention of the authorities, in order to get the benefit of 'No Objection Certificate' to the extent of the land in question in this writ petition. If any request is made by the petitioner, the same shall be considered by the authorities concerned, within a period of one month from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sts/aeb

To:

1) The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035

2) The Tahsildar,
Sholinganallur Taluk,
Sholinganallur 600 119

+1cc to Mr.N.S.Nandakumar, Advocate, S.R.No.64574
+1cc to Mr.B.Viveka Vanan, Advocate, S.R.No.63817

W.P.No.3536 of 2011

SS(CO)
CS/02/01/18