

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.Nos.17484 to 17493 of 2017

P.Balasubramanian ... Petitioner in W.P.17484 of 2017
M.Mumtaj ... Petitioner in W.P.17485 of 2017
P.Mani ... Petitioner in W.P.17486 of 2017
M.Arumugam ... Petitioner in W.P.17487 of 2017
M.Suseela ... Petitioner in W.P.17488 of 2017
G.Ganesan ... Petitioner in W.P.17489 of 2017
M.Rama ... Petitioner in W.P.17490 of 2017
B.Parasakthi ... Petitioner in W.P.17491 of 2017
P.Manoharan ... Petitioner in W.P.17492 of 2017
A.Jagannathan ... Petitioner in W.P.17493 of 2017

Vs.

- 1.The Tahsildar
Maduravoyal Taluk,
Alapakkam, Chennai - 600 116.
- 2.Tamil Nadu Housing Board,
Rep. by its Managing Director,
493, Anna Salai,
Nandanam, Chennai - 600 035. ... Respondents in all WPs

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus,

W.P.No.17484 of 2017 : Directing the first respondent to process the petitioner's application dated 15.05.2017 along with the petitioner's representation dated 17.05.2017 and grant patta in respect of Plot No.69, Door No.14-A, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai -87, measuring an extent of 1200 Sq.Ft comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent within a time frame.

W.P.No.17485 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 17.5.2017 and grant patta in respect of Plot No.185, Door No.8, 1st Main Road, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 3015 Sq.ft., comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17486 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 16.5.2017 and grant patta in respect of Plot No.68, Door No.13, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 1110 Sq.ft., (2.56 cents) comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17487 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 16.5.2017 and grant patta in respect of Plot No.66, Door No.9, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 1200 Sq.ft., (2.75 cents) comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17488 of 2017 : Directing the 1st respondent to process the petitioners application dated 6.1.2016 along with the petitioners representation dated 19.5.2017 and grant patta in respect of Plot No.175 (Part), Door No.17, 1st Main Road, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 1811 Sq.ft., (4.15 cents) comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17489 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 16.5.2017 and grant patta in respect of Plot No.65(Part), Door No.5, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 865 Sq.ft., comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17490 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 17.5.2017 and grant patta in respect of Plot No.178, 1st Main Road, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 2685 Sq.ft (6.15 cents), comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17491 of 2017 : Directing the 1st respondent to process the petitioners application dated 11.1.2016 along with the petitioners representation dated 19.5.2017 and grant patta in respect of Plot No.114, Door No.15, 1st Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 1035 Sq.ft, comprised in Survey No.373/2A, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17492 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 17.5.2017 and grant patta in respect of Plot No.70, Door No.14, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 1200 Sq.ft., comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

W.P.No.17493 of 2017 : Directing the 1st respondent to process the petitioners application dated 15.5.2017 along with the petitioners representation dated 16.5.2017 and grant patta in respect of Plot No.67, Door No.10, 3rd Street, Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-87, measuring an extent of 600 Sq.ft., (1.375 cents), comprised in Survey No.375, Nerkundram Village, Maduravoyal Taluk, Tiruvallur District in favour of the petitioner without insisting no objection from the 2nd respondent, within a time frame as fixed by this Honourable court.

For Petitioners : Mr.K.Karthik Jagannath
in all WPs

For Respondents : Mr.R.Rajeswaran
in all WPs Special Government Pleader for R1

Mr.Mr.Viveka Vanan
Standing Counsel for R2

C O M M O N O R D E R

The petitioners have filed the above Writ Petitions to issue a writ of mandamus, directing the first respondent to process the petitioners' application, dated 15.05.2017, 06.01.2016, 11.01.2016 and grant patta in respect of S.Nos.375, 373/2A respectively in Nerkundram Village, Maduravoyal Taluk, Tiruvallur District, in favour of the petitioners, without insisting No Objection Certificate from the second respondent, within a time frame.

2. It is the case of the petitioners that originally Section 4(1) Notification was issued for acquisition of the lands on 11.06.1975 and 09.06.1978 in G.O.Rt.No.124 Housing, dated 08.05.1975 and G.O.Ms.Nos.996, 993, 994 Housing, dated 07.06.1978. Challenging the Notification issued under Section 4(1) and 6 of the Land Acquisition Act, the land owner preferred writ petitions in W.P.Nos.8370 and 8371 of 1986 and the Division Bench of this Court, by order dated 21.01.1988 allowed the writ petitions and quashed the declaration under Section 6 of the Act and directed the authorities to conduct enquiry under Section 5A of the Act afresh.

3. Thereafter, the petitioner in W.P.No.8371 of 1986 preferred a writ petition in W.P.No.18379 of 1991 challenging Section 4(1) Notification dated 11.06.1995. This Court, by order dated 01.07.1999 quashed the Section 4(1) Notification dated 11.06.1975 and allowed the writ petition. In para 3 of the order passed in the said writ petition, this Court also recorded that the possession of the land was handed over to the Tamil Nadu Housing Board on 25.07.1986.

4. The petitioners, after their purchase from the original land owner, had applied for issuance of patta before the first respondent. The first respondent directed the petitioners to get No Objection Certificate from the Tamil Nadu Housing Board for the reason that the land was acquired by the Tamil Nadu Housing Board.

5. The learned counsel for the petitioners submitted that once Section 4(1) Notification has been quashed by this Court, the Housing Board has no right over the acquired lands. Admittedly, neither the Housing Board nor the State Government have challenged the orders passed in the earlier writ petitions. Therefore, according to the learned counsel for the petitioners, the order passed in W.P.Nos.8370 and 8371 of 1986, dated 21.01.1988 and in W.P.No.18379 of 1991, dated 01.07.199 have become final.

6. Mr.Vivekavanan, learned Standing Counsel appearing for the Tamil Nadu Housing Board, submitted that the Housing Board had taken possession of the land, as early as on 25.07.1986 and also deposited the Award amount before the Civil Court. The learned Standing Counsel further submitted that Award was

passed on 30.05.1986 in Award No.1 of 1986. In these circumstances, the learned Standing Counsel appearing for the Housing Board submitted that the possession is still with the Housing Board and the petitioners have no right to get patta from the first respondent.

7. Mr.R.Rajeswaran, learned Special Government Pleader appearing for the first respondent fairly submitted that after quashing of the Section 4(1) Notification, neither the State nor the Housing Board have any right over the acquired lands.

8. When Section 4(1) Notification itself has been quashed by this Court on 01.07.1999 after taking into consideration that the possession of the land was handed over to the Housing Board on 25.07.1986, the Housing Board cannot claim any right over the acquired lands. Admittedly, the respondents have not issued any fresh 4(1) Notification for acquisition after the order passed on 01.07.1999. The Tamil Nadu Housing Board, having lost their right on 01.07.1999 cannot now take a stand that they are still in possession of the land pursuant to Section 4(1) Notification dated 11.06.1975.

9. The learned counsel for the petitioners also brought to the notice of this Court that in the lands sought to be acquired, layouts were formed and 250 occupants have constructed house and are residing.

10. When the Housing Board has no right over the lands sought to be acquired under Section 4(1) Notification dated 11.06.1975, the first respondent viz., the Tahsildar, should not have insisted the petitioners to get No Objection Certificate from the Housing Board. The first respondent should have considered the orders passed by this Court in the earlier writ petitions. Without even considering those orders, the Tahsildar had called upon the petitioners to get No Objection Certificate from the Housing Board, which is unwarranted.

11. In these circumstances, I direct the first respondent to consider the petitioners' application for issuance of patta without insisting them to produce No Objection Certificate from the Tamil Nadu Housing Board and pass orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

12. With these observations, the writ petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Tahsildar
Maduravoyal Taluk,
Alapakkam, Chennai - 600 116.

2.The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035.

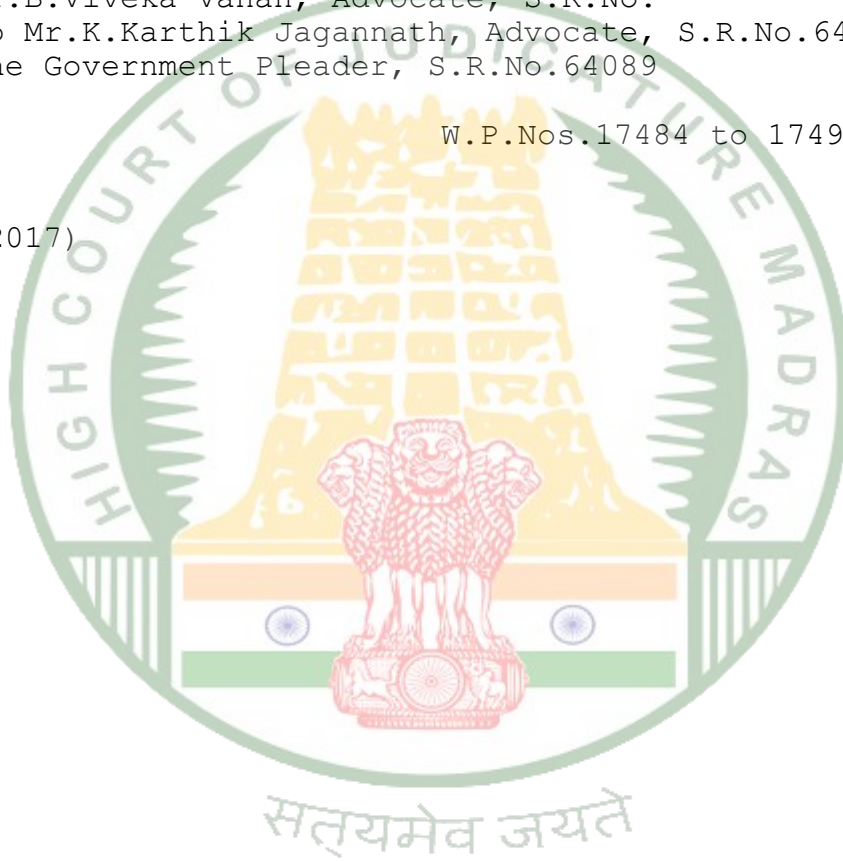
+1cc to Mr.B.Viveka Vanan, Advocate, S.R.No.

+10cc's to Mr.K.Karthik Jagannath, Advocate, S.R.No.64357

+1cc to the Government Pleader, S.R.No.64089

W.P.Nos.17484 to 17493 of 2017

NMI (CO)
CA(22/09/2017)



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