

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

Writ Petition No.2803 of 2017

R.Parthasarathy

... Petitioner

vs.

1.The Secretary,
Housing and Urban Development,
Fort St. George, Chennai - 9.

2.The Managing Director,
Tamil Nadu Housing Board,
No.439, Anna Salai,
Nandanam, Chennai - 35.

3.The Special Tahsildar,
Land Acquisition,
Coimbatore Housing Scheme
Unit I, Coimbatore.

... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the 2nd respondent to issue No Objection Certificate in respect of the petitioner's land covered under G.O.Ms.No.507 dated 17.05.1995 situated at Vellaikiner Village, Coimbatore North Taluk, Coimbatore in S.F.Nos.484, 502, 503, 482, 483, 504, 506, 513 and 514 admeasuring a total extent of 10.69 hectares, within a time frame.

सत्यमेव जयते

For Petitioner : Mr.R.Krishnamurthy, Sr. Counsel
for Mr.R.Udhayakumar

For Respondents: Mr.S.Diwakar,
Spl. Govt. Pleader for R1 & R3
Mr.B.Vivekavanam for R2

ORDER

Seeking a direction to the second respondent to issue No Objection Certificate in respect of the petitioner's land covered under G.O.Ms.No.507 dated 17.05.1995 situated at Vellaikiner Village, Coimbatore North Taluk, Coimbatore in

S.F.Nos.484, 502, 503, 482, 483, 504, 506, 513 and 514 admeasuring a total extent of 10.69 hectares, the present writ petition has been filed.

2.The petitioner's mother purchased the property, which is the subject matter of the writ petition, by a registered sale deed dated 26.02.1969. The acquisition proceedings have been initiated through the Government Order in G.O.Ms.No.507 Housing and Urban Development Department dated 17.05.1995. A declaration was passed thereafter under Section 6 of the Land Acquisition Act, 1894 on 28.06.1998.

3.A writ petition was filed in W.P.No.12832 of 1998 which was allowed on 05.08.2009. Thereafter, the petitioner has been making several representations including the last one being sent on 10.11.2016 received on 20.12.2016 requesting the second respondent to issue No Objection Certificate. Learned senior counsel appearing for the petitioner would submit that under those circumstances, the writ petition will have to be allowed.

4.Learned counsel appearing for the second respondent submits that an appeal has been filed in W.A.SR.No.78589 of 2011.

5.This Court is afraid that a mere filing of an appeal, which is yet to be numbered for more than six years, against the order passed by this Court in 2009, cannot be a ground to deny the relief sought for. The appeal was also not filed in time but with substantial delay. Even thereafter, no steps have been taken till now. The petitioner has got the order as early as 05.08.2009. Now, more than seven years have elapsed. The property has been purchased in the year 1969. Hence looking from any angle, this Court is of the view that the stand taken by the respondents cannot be accepted.

6.Accordingly, the writ petition stands allowed. Consequently, the second respondent is directed to issue No Objection Certificate in favour of the petitioner's land as sought for within a period of eight weeks from the date of receipt of a copy of this order. However, it is made clear that this order is subject to the final order, if any, that may be passed in W.A.SR.No.78589 of 2011. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Housing and Urban Development,
Fort St. George, Chennai - 9.

2.The Managing Director,
Tamil Nadu Housing Board,
No.439, Anna Salai,
Nandanam, Chennai - 35.

3.The Special Tahsildar,
Land Acquisition,
Coimbatore Housing Scheme
Unit I, Coimbatore.

+1cc to Mr.R. R. Udaya Kumar, Advocate, S.R.No.22545
+1cc to Mr.B. Viveka Vanan, Advocate, S.R.No.22508
+1cc to the Government Pleader, S.R.No.22807

VGI (CO)
EU 4.5.17

W.P.No.2803 of 2017



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