

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.2429 & 2430 of 2011
and M.P.Nos.2 and 2 of 2011

J.Vincent .. Petitioner in W.P.No.2429 of 2011

V.Valarmathy .. Petitioner in W.P.no.2430 of 2011

vs.

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai 600 035.

2.The Executive Engineer/Administrative Tribunal,
Tamil Nadu Housing Board,
Tirumangalam, Anna Nagar Division,
Chennai. .. Respondent in both W.Ps.

Prayer in both W.Ps...: Writ petitions filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandmus to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings No.A.Na.Ko/Survey/92/75, dated 22.07.2010 and quash the same and consequently direct the respondents to hand over the possession of the land situated in S.No.249/5, Naduvankarai Village, Arumbakkam, Chennai 106 to the petitioner.

For Petitioner : Mr.C.Prakasam
(In both W.Ps.)

For Respondent : Mr.V.Anandhamoorthy
(In both W.Ps.) Addl.Govt.Pleader.

C O M M O N O R D E R

Challenging the impugned order of the second respondent, dated 22.07.2010 and for a consequential direction to the

respondents to hand over the possession of the land situated in S.No.249/5, Naduvankarai Village, Arumbakkam, Chennai 106 to the petitioners, the present writ petitions are filed.

2. According to the learned counsel for the petitioners, the petitioners are the absolute owners of the land and they are in possession and enjoyment of the schedule mentioned property and also paying the taxes to the concerned authorities. The first respondent attempted to demolish the building of the petitioners' property. Therefore, the petitioners have filed writ petitions in W.P.Nos.19261 of 2007 and 20036 of 2007 praying to consider their representation and the same was dismissed with an observation that if they made request to the respondents, they may be considered for allotment of the constructed house on merits.

3. Learned counsel for the petitioners submitted that the land in survey No.249/5 is a patta land and the Housing Board is in no way connected with the aforesaid land. The respondents-Housing Board have acquired the land and encroached upon the private land of the petitioners, without considering the fact that the petitioners being the owners of the property. As per the G.O.Ms.No.31, dated 10.08.1960, notification was issued by the Government, wherein, it is stated that the lands were acquired in that G.O., the said S.No.249/5 is not at all included in his land. Thereafter, the petitioners made a representation to the respondents dated 28.06.2010 to hand over the above said land and also to pay compensation for illegal demolition. But the same was rejected by the second respondent. Hence, the petitioners have filed the present writ petitions before this Court.

4. The learned counsel appearing for the respondents drew the attention of this Court in W.P.Nos.19901 and 20036 of 2007 by a common order, dated 02.08.2007, wherein, after considering the submissions of the petitioners, dismissed the same. Aggrieved persons have filed writ appeal in W.A.Nos.1270 to 1275 of 2007 and the same were also dismissed on 10.10.2007. Now, the petitioners have made representation to the respondents to pay compensation and hand over the possession but the same cannot be considered by the respondents. According to the learned counsel for the respondents, the subject matter of the property had already been taken possession by the Housing Board as per the direction of this Court in W.P.Nos.19901 and 20036 of 2007. Therefore, the present writ petitions are liable to be rejected. Earlier, some writ petitions were filed before this Court and the same were also dismissed. In the aforesaid W.P.Nos.19901 and 20036 of 2007, at para Nos.13 and 14, this Court has observed as follows:

13. The learned counsel appearing for the petitioners submitted that the petitioners are in occupation of the said lands for a substantial period, hence, sufficient time may be granted to them to remove their belongings and to deliver the vacant possession. Considering the same, time of six months is granted from today to enable the petitioners to deliver vacant possession of the property to the respondents provided they submit an affidavit of undertaking to that effect to the respondents within a period of two weeks from today. If the affidavits of undertaking are not filed within the time stipulated, it is open to the Board to initiate eviction forthwith without waiting for the said period of six months.

14. The petitioners submitted that after construction in the said lands are over and in the event of selling the constructed portion under any of the scheme of the respondents or the Board decided to sell the lands without construction, they may be considered on priority basis. Such relief cannot be given and allotments can be made only through lot or by public auction, however, any representation is received for allotment of land or building from the petitioners, it is for the Board to consider it on merits and pass orders in accordance with law.

Aggrieved persons have challenged before this Court by way of appeal and the same was also dismissed.

5. The aforesaid order has become final and observed in the above writ petition, if any representation made for allotment of land or building of the petitioners, it is for the Board to consider the same on merits and in accordance with law. Now, the petitioners cannot claim any legal right to challenge the impugned order passed by the second respondent. Therefore, this Court is not inclined to entertain the writ petitions and consequently, both the writ petitions are liable to be dismissed.

6. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai 600 035.

2.The Executive Engineer/Administrative Tribunal,
Tamil Nadu Housing Board,
Tirumangalam, Anna Nagar Division,
Chennai.

+2 cc to Mr.C.Prakasam, Advocate Sr.No.83047

+2 cc to Mr.V.Anandhamurthy, Advocate Sr.No.82442

W.P.Nos.2429 & 2430 of 2011
and M.P.Nos.2 & 2 of 2011

KS (CO)
CSL/20.02.2019

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