

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.08.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26072 of 2017

and

WMP No.27687 of 2017

1.J.Jayakumar Ajaykumar

2.Mrs.Dhanya Ajay Kumar

.. Petitioners

.Vs.

1.The Managing Director,
Tamil Nadu Housing Board,
No.800, Anna Salai,
Nandanam,
Chennai 600 035.

2.The Executive Engineer-cum-
Administrative Officer,
Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Coimbatore 641 012.

3.The Tahsildar,
Coimbatore North,
Coimbatore 641 018.

4.The Special Tahsildar,
Land Acquisition,
Housing Scheme No.II,
Collectorate,
Coimbatore.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the 3rd respondent-Tahsildar to issue patta in respect of house site bearing site No.240 measuring to an extent of 5151 sq.ft. Comprised in Survey No.363/3 of Kalapatty Village, Coimbatore North Taluk and District without insisting upon No Objection Certificate from the respondents 2 and 4 within the time to be stipulated by this Court.

For Petitioners : Mr.R.Bharath Kumar

For Respondents: Mr.B.Viveka Vanan for R 1 and R2

Mr.M.Karthikeyan for R 3
Additional Government Pleader

Mr.M.Elumalai for R 4
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the 3rd respondent-Tahsildar to issue patta in respect of house site bearing site No.240 measuring to an extent of 5151 sq.ft. comprised in Survey No.363/3 of Kalapatty Village, Coimbatore North Taluk and District without insisting upon No Objection Certificate from respondents 2 and 4.

2.Admittedly, land acquisition proceedings were initiated in respect of the land to a larger extent in that locality more specifically in Kalapatty Village for the purpose of developing a Neighborhood Scheme by the Tamil Nadu Housing Board. The land acquired was in favour of the Government of Tamil Nadu for the purpose of a development scheme. However, some land owners who were affected from and out of the land acquisition proceedings approached the Courts and the matter went up to Supreme Court and finally the land acquisition proceedings in respect of certain members were quashed. The learned counsel for the petitioner states that in respect of the property belongs to the petitioner, the land acquisition proceedings were quashed, and therefore, he is entitled for patta in accordance with law under the provisions of the Patta Pass Book Act, 1987.

3.The learned counsel appearing on behalf of Tamil Nadu Housing Board states that larger extent of lands were acquired for the purpose of developing the Neighborhood Scheme in Kalapatty Village and some litigants approached the Court and the orders in respect of certain lands were not quashed by the Courts. It is contended that the portions of those lands already quashed and the Tamil Nadu Housing Board is in possession and enjoyment of the lands and the Scheme is under implementation. Thus, the case of the writ petitioner cannot be considered, and no Objection Certificate as such cannot be issued to the writ petitioner.

4.Mrs.K.Gokilamani, the Special Tahsildar (LA) Housing Coimbatore is present before this Court along with the files.

The learned Government Advocate appearing on behalf of the Special Tahsildar contended that the the Special Tahsildar, land acquisition/4th respondent informs this Court that the acquisition proceedings in respect of the land belongs to the writ petitioner measuring 5151 sq.ft in S.No.363/3 of Kalapatti Village, Coimbatore North Taluk was quashed by this Court. Thus, his land is to be exempted from the acquisition proceeding, and therefore, there may not be any impediment for the third respondent-Tahsildar to issue patta in favour of the writ petitioner. The 4th respondent/Special Tahsildar is requested to prepare a comprehensive chart marking the locations wherein the acquisition proceeding in respect of lands were quashed and the portions of the land which are in possession and enjoyment of the Tamil Nadu Housing Board. If such a demarcation and a map is prepared, it would be easy for the officials to justify the case to avoid all future confusions. Thus, the Special Tahsildar has to prepare a map in this regard to show that serial numbers, which are all quashed by the Courts and the other serial numbers, which are all allotted to the Tamil Nadu Housing Board to avoid all future conflicts and confusions.

5.As far as respondents 1 and 2 Tamil Nadu Housing Board is concerned, this Court is of an opinion that the original acquisition was made for the purpose of developing a Neighborhood Scheme by the Tamil Nadu Housing Board. When the acquisition proceedings were quashed, undoubtedly, the Tamil Nadu Housing Board has to issue No Objection Certificate. This Court is of an opinion that once land acquisition proceedings were quashed in respect of petitioner lands, it is duty mandatory on the part of the Housing Board to issue No Objection Certificate in favour of the writ petitioner, and therefore, the 3rd respondent-Tahsildar is bound to grant patta in accordance with law as contemplated under the Patta Pass Book Act, 1982. This being the factum of the case, the respondents 1 and 2 are directed to issue No Objection Certificate to the writ petitioner in respect of his portion of land to an extent of 5151 sq.ft. comprised in S.No.363/3 of Kalapatti Village, Coimbatore North Taluk within a period of four weeks from the date of receipt of copy of this order. Thereafter, the writ petitioner shall produce the No Objection Certificate to the third respondent-Tahsildar, and on production of No Objection Certificate, the third respondent-Tahsildar is directed to issue patta in favour of the writ petitioner by following the procedures within a period of six weeks thereafter.

6. Accordingly, the writ petition stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
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2. The Executive Engineer-cum-
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Coimbatore 641 018.

4. The Special Tahsildar,
Land Acquisition,
Housing Scheme No.II, सत्यमेव जयते
Collectorate,
Coimbatore.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.59734

+1cc to Mr.B.Vivekavanam, Advocate, S.R.No.59207

+1cc to the Government Pleader, S.R.No.59762 & 59795

W.P.No.26072 of 2017

SS(CO)
GSP(19/09/2018)