

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.17818 of 2010
& M.P.No.1 of 2010

S.Ramamurthy

...Petitioner

Vs.

1. Tamil Nadu Housing Board,
Rep. By its Chairman,
Nandanam,
Chennai - 600 035.

2. The Commissioner,
Pallavapuram Municipality,
Chennai - 600 044.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent and quash the proceedings of the 2nd respondent in Ka.Ma.En.183/09F1, dated 20.03.2009 and consequently, direct the 2nd respondent to receive the petitioner's application for planning permission in respect of petitioner's land to an extent of 11 cents out of 64 cents in S.No.333/3, Kilkattalai (New No.17, Madipakkam Part-II) Village, Tambaram Taluk, without insisting the petitioner to produce the "No Objection Certificate" from the 1st respondent for processing the same.

For Petitioner : Mr.Ramanlaal

For Respondents : Mr.B.Viveka Vanan (for R1)
Mr.P.Srinivas (for R2)

ORDER

This writ petition has been filed to quash the order of the 2nd respondent in his proceedings in Ka.Ma.En.183/09F1, dated 20.03.2009 and consequently, direct the 2nd respondent to receive the application of the petitioner submitted for planning permission without insisting him to produce "No Objection Certificate" from the 1st respondent.

2. Heard the learned counsel for the petitioner, the learned Standing Counsel for the 1st respondent and the learned standing counsel for the 2nd respondent.

3. The case of the petitioner is that he is the absolute owner of the property in Survey No.333/3, Kilkattalai (New No.17, Madipakkam Part-II) Village, Chennai. He approached the 2nd respondent for planning permission to construct a house. The 2nd respondent by the impugned order returned the approval application with a direction to produce "No Objection Certificate" from the Tamil Nadu Housing Board.

4. According to the petitioner, the Government of Tamil Nadu issued Notification under Section 4(1) of the Land Acquisition Act in G.O.Ms.No.978, Housing and Urban Development Department, dated 17.08.1990 and declaration under Section 6 of the said Act in G.O.Ms.No.1306, Housing and Urban Development Department, dated 28.09.1991. The entire land acquisition proceedings were quashed in a batch of writ petitions in W.P.No.20300 of 1994, etc., on the ground that the declaration under Section 6, was not issued within a period of one year. Hence, there is no necessity to get no objection certificate from the Tamil Nadu Housing Board.

5. The learned counsel for the petitioner submitted that in W.P.No.28020 of 2007, etc., batch of cases, this Court issued direction to the 2nd respondent to consider the planning permission application without insisting for "No Objection Certificate" from the 1st respondent.

6. The learned counsel for the 1st respondent contended that neither the petitioner nor his vendors challenged the acquisition proceedings and they were only silent spectators. After the impugned order, the petitioner ought to have approached the Tamil Nadu Housing Board for issuance of "No Objection Certificate" and hence, this writ petition is not maintainable.

7. It is not in dispute that in a batch of writ petitions referred supra, this Court had quashed the entire proceedings in G.O.Ms.No.1306, Housing and Urban Development Department, dated 28.09.1991 and pursuant to the order, this Court in another batch of writ petitions, issued direction to the 2nd respondent to consider the planning application without insisting "No Objection Certificate" from the Tamil Nadu Housing Board. It is not the case of the respondents that subsequent to the quashment of the earlier acquisition proceedings, fresh notifications have been issued to acquire the lands.

8. In the light of the above facts, the order impugned in

this writ petition cannot be sustained and it is quashed. The 2nd respondent shall process the application of the petitioner and take a decision on merits, without insisting for production of "No Objection Certificate" from the 1st respondent. Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

pvs

To

1. Tamil Nadu Housing Board,
Rep. By its Chairman,
Nandanam,
Chennai - 600 035.

2. The Commissioner,
Pallavapuram Municipality,
Chennai - 600 044.

+1cc to Mr.R.Raamanlal, Advocate SR.No.14382
+1cc to Mr.Vivekavannam, Advocate SR.No.14630
+1cc to Mr.P.Srinivas, Advocate SR.No.14917

WP.No.17818 of 2010

GN(20/03/2018)

सत्यमेव जयते

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