

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.876 of 2004

Nolambur Residents Welfare Association,
Represented by its President,
Mr.S.Nasirudeen,
MIG-356, 2nd Cross Street,
Nolambur Neighbourhood Scheme,
Phase-I, Chennai - 600 095.

..Petitioner

vs

1. The Commissioner & Secretary
to Government,
Housing & Urban Development Department,
Fort St.George, Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
331, Anna Salai,
Nandanam, Chennai - 600 035.
3. The Commissioner,
Villivakkam Panchayat Union,
Ambattur, Chennai - 600 053.
4. The President,
Nolambur Panchayat,
Nolambur, Chennai - 600 037.
5. The National Academy of Customs,
Excise and Narcotics (NACEN), Chennai,
Rep. by its Officer-In-Charge,
2nd Main Road, Padi,
Ambattur Industrial Estate, Chennai-58.
6. The Chennai Metro Politan
Water Supply and Sewerage Board (CMWSSB),
Rep. by its Managing Director,
No.1, Pumping Station Road,
Chintadripet, Chennai - 2.

.. Respondents

**(R5 & R6- are Suo Moto impleaded as per order dated
05.12.2017) .**

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Prohibition, prohibiting the Respondents from altering, modifying, re-conveying or alienating the common areas and facilities provided under the Tamil Nadu Housing Board, Nolambur Neighbourhood Scheme, Phase - I.

For Petitioner : Mr.S.J.Jagadev

For Respondents : Mrs.K.Bhuvaneswari, AGP for R1.
M/s.S.D.Nandakumar
for R2
Mr.O.Selvam for R3
Rajnish Pathiyil
for impleaded respondent No.5

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Prohibition, prohibiting the Respondents from altering, modifying, re-conveying or alienating the common areas and facilities provided under the Tamil Nadu Housing Board, Nolambur Neighbourhood Scheme, Phase-I.

2. The petitioner is the President of Nolambur Residents' Welfare Association and the Association is functioning from the year 1996 and taking care of the interest and welfare of the allottees and residents of the Nolambur Neighbourhood, Phase-I Scheme. Tamil Nadu Housing Board has earmarked 19 places as common areas and already 14 places were handed over to Villivakkam Panchayat Union and remaining places are also in the process of being handed over to the said Panchayat Union. Whiles, some persons attempted to encroach and occupy the common areas and facilities earmarked for park, school, play ground, etc., provided within the Nolambur Neighbourhood Scheme promoted by Tamil Nadu Housing Board. More especially, the park in Survey No.338 was targeted. Hence, the petitioner filed the present writ petition with the above prayer.

3. The learned counsel appearing for the second respondent filed a counter stating that the common areas such as roads, open spaces, parks, etc. provided in the scheme are already been handed over to the local body ie., Villivakkam Panchayat union on 01.03.2002 for future maintenance. The public purpose and High School with play ground site has to be allotted as per the norms of Tamil Nadu Housing Board, so as to cater to the needs of the residents by establishing the school, etc.

4. The learned counsel appearing for the respondents 5 and 6 submits that though the Tamil Nadu Housing Board initially

stated that the said piece of land could be sold on auction basis, vide letter No.Allot.(Co-or)/52367/2011 dated 01.11.2011, the Secretary and Personnel Officer of Tamil Nadu Housing Board subsequently informed that the Tamil Nadu Housing Board has approved to sell the land (3.26 Acres) under outright purchase basis as a special case, subject to payment of the cost of the land (which is Rs.40.35 Crores as on that date) and other incidental expenses (Applicable stamp duty and registration charges amounting to 9% of Land cost).

5. Consequently, Tamil Nadu Housing Board was requested to obtain appropriate approval from Chennai Metropolitan Development Authority for conversion of the same for "Institutional Purpose". Member Secretary, CMDA Chennai vide letter No.L1/6791/2015 dated 28.04.2015 approved the revision of layout for Nolambur Phase I Scheme submitted by Tamil Nadu Housing Board for the conversion of High School and Play ground into Institutional purpose included in S.Nos.322/5pt, 322/6pt, 328pt, 329, 332/2pt, 332/2pt & 349/3pt of Nolambur Village proposed to be purchased by NACIN and also enclosed a copy of the approved layout, with a copy of approved letter and permit.

6. Accordingly, the Ministry of Finance, Department of Revenue vide its letter issued in F.No.915/04/land/Chennai-NACEN/HRD/2011 dated 24.03.2014 conveyed the administrative approval and expenditure sanction of the President of India for Rs.49,88,74,188/- for purchasing 3.26 Acres of land on an outright basis from Tamil Nadu Housing Board. Further, an additional amount of Rs.5,22,43,559/- being interest for the financial year 2014-15, over and above the sanctioned amount of Rs.49,88,74,188/- for purchase of 3.26 acres of land was sanctioned by the Government. The piece of land was thereafter registered in the name of NACEN. An advertisement was placed in newspapers calling for expression of interest from Central/State Government Departments and PSUs for providing Project Management Consultancy Services for execution of the project for NACIN complex in the said land and an evaluation committee was formed to select the Project Management Consultancy Services. Among the organisations who expressed their interest, M/s NBCC, a public Sector Undertaking under the Ministry of Urban Development, Government of India, was recommended and accepted by the Director General, NACEN, Faridabad for the execution of the said project.

7. According to the learned counsel for the petitioner, the present case is all about allotment of common area land to third party.

8. But, the learned counsel appearing for the second respondent would submit that the area earmarked for common purpose was not allotted to any third party and therefore, there

is no violation of any rules. However, the area earmarked for School purpose was handed over to the 5th respondent, which is also institutional purpose.

9. Accordingly, the present writ petition stands dismissed.
No costs.

kmm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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to Government,
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Rep. by its Managing Director,
No.1, Pumping Station Road, Chintadripet, Chennai - 2.
- +1cc to Mr.Rajnish Pathiyil, Advocate, SR.No.57808
+1cc to Mr.T.C.Gopalakrishnan, Advocate, Vide Sr.No.56826
+1cc to the Govt.Pleader, Vide Sr.No.58112

W.P.No.876 of 2004

Kak(14/10/2019)