

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.5013 & 5019 of 2019
and W.P.Nos.28934 & 28940 of 2018
and
W.M.P.Nos.5721 & 5727 of 2019
and W.M.P.Nos.33822 & 33826 of 2018

W.P.No.5013 of 2019

K.R.Athavullah Basha ... Petitioner

Vs

1. The Tahsildar,
Sholinganallur Taluk,
No.3, Kumaran Nagar,
Rajiv Gandhi Salai 1st Street,
Sholinganallur,
Chennai - 600 119.
2. The Special Tahsildar,
(Land Acquisition) Unit-IV,
Tamil Nadu Housing Board,
(1st Floor) Nandanam,
Chennai - 600 035.
3. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam,
Chennai - 600 035. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to transfer the patta in respect of the petitioner's lands comprised in S.No.404/1A, measuring Hectares 0.35.5 (88 cents) and S.No.405/1A measuring Hectares 0.14.0 (34 cents), Old Patta No.29, situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District in his name, without insisting upon No Objection Certificate from the respondents 2 and 3, by considering the petitioner's representation dated 22.10.2018.

W.P.No.5019 of 2019

K.R.Rahamathullah

... Petitioner

Vs

1. The Tahsildar,
Sholinganallur Taluk,
No.3, Kumaran Nagar,
Rajiv Gandhi Salai 1st Street,
Sholinganallur,
Chennai - 600 119.

2. The Special Tahsildar,
(Land Acquisition) Unit-IV,
Tamil Nadu Housing Board,
(1st Floor) Nandanam,
Chennai - 600 035.

3. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam,
Chennai - 600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to transfer the patta in respect of the petitioners' lands comprised in (i) S.No.403/3, measuring Hectares 0.31.0 (77 cents) Old Patta No.2327, ii) S.No.400/1B measuring Hectares 0.10.0 (25 cents) Old Patta No.1753 and iii) S.No.400/2B, measuring Hectares 0.38.5 (95 cents) Old Patta No.2402 situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District in their name, without insisting upon No Objection Certificate from the respondents 2 and 3, by considering the petitioner's representation dated 22.10.2018.

W.P.No.28934 of 2018

1. M.Sanma Bee
2. M.Noornisha
3. I.Mehboob Basha

... Petitioners

Vs

1. The Tahsildar,
Sholinganallur Taluk,
No.3, Kumaran Nagar,
Rajiv Gandhi Salai 1st Street,
Sholinganallur,
Chennai - 600 119.

2. The Special Tahsildar,
(Land Acquisition) Unit-IV,
Tamil Nadu Housing Board,
(1st Floor) Nandanam,
Chennai - 600 035.
3. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam,
Chennai - 600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to transfer the patta in respect of the petitioners' lands comprised in S.No.404/2, measuring Hectares 0.37.0 Hectares (91 cents) Old Patta No.987, situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District in their name, without insisting upon No Objection Certificate from the respondents 2 and 3, by considering the petitioners' representation dated 12.09.2018.

W.P.No.28940 of 2018

1. M.Sanma Bee
2. M.Noornisha
3. I.Mehboob Basha

... Petitioners

Vs

1. The Tahsildar,
Sholinganallur Taluk,
No.3, Kumaran Nagar,
Rajiv Gandhi Salai 1st Street,
Sholinganallur,
Chennai - 600 119.
2. The Special Tahsildar,
(Land Acquisition) Unit-IV,
Tamil Nadu Housing Board,
(1st Floor) Nandanam,
Chennai - 600 035.
3. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam,
Chennai - 600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to transfer the patta in respect of the petitioners' lands comprised in S.No.404/1B, measuring Hectares 0.35.5 (88

cents) Old Patta No.112, situated at Sholinganallur Village, Sholinganallur Taluk, Kancheepuram District in their name, without insisting upon No Objection Certificate from the respondents 2 and 3, by considering the petitioners' representation dated 12.09.2018.

For Petitioners : Mr.S.Thangavel

For Respondents : Mr.V.Prabhu,
Government Advocate for R1 & R2
Mr.M.Baskar, for R3/ TNHB.

C O M M O N O R D E R

In all these writ petitions, the respective writ petitioners seek for mandamus directing the first respondent to transfer the patta in respect of the subject matter land in the name of the respective petitioners without insisting upon No Objection Certificate from the Tamil Nadu Housing Board.

2. Heard Mr.S.Thangavel, learned counsel for the petitioner and Mr.M.Baskar, learned Standing Counsel appearing for the Tamil Nadu Housing Board and the Special Government Pleader appearing for the first respondent Tahsildar.

3. It is seen that the subject matter land in each writ petition was subjected to acquisition proceedings by the Government for the purpose of Housing Scheme as early as in the year 1980. It is further seen that those acquisition proceedings was quashed by this Court as early as in the year 2006 and confirmed by the Apex Court. Therefore, it is a matter of fact that as on date, the subject matter lands are free from any acquisition proceedings. However, the patta transferred in the name of Housing Board in pursuant to the original acquisition proceedings still remains in the name of the Housing Board and not re-transferred in the name of the respective petitioners despite their repeated request made before the first respondent. On the other hand, the first respondent seems to be insisting the petitioners to get No Objection Certificate from the Tamil Nadu Housing Board for re-transfer of patta in their name.

4. When admittedly the acquisition proceedings are already quashed and the subject matter lands are free from any further acquisition proceedings, the petitioners are entitled to get their name in the patta retransferred and therefore, for the purpose of such name transfer, there is no necessity for the Tamil Nadu Housing Board to issue No Objection Certificate when the Housing Board ceased to have any right over the said land,

as the acquisition proceedings are quashed. The very same issue was considered by this Court earlier in W.P.No.8646/2017 dated 05.12.2018 and rejected the contention of the learned counsel for the Housing Board.

5. Mr.M.Baskar, learned counsel appearing for the Housing Board submitted that the Housing Board is contemplating to take steps to get the subject matter lands either by way of private negotiation or by initiation of fresh acquisition proceedings. Merely because the Housing Board is contemplating to make such proposal, that will not mean that the Housing Board has any right over the subject matter property as on today, that too, preventing the Tahsildar from transferring the patta in the name of the petitioner from the name of the Housing Board. Accordingly, I find that that these petitioners are entitled to get their patta transferred in their respective names without producing any No Objection Certificate from the Tamil Nadu Housing Board.

6. Accordingly, the Writ Petitions are allowed and the first respondent is directed to consider the claim of the respective petitioners for transfer of patta in their name without insisting for No Objection Certificate from the Tamil Nadu Housing Board. Such exercise shall be done by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Tahsildar,
Sholinganallur Taluk,
No.3, Kumaran Nagar,
Rajiv Gandhi Salai 1st Street,
Sholinganallur,
Chennai - 600 119.

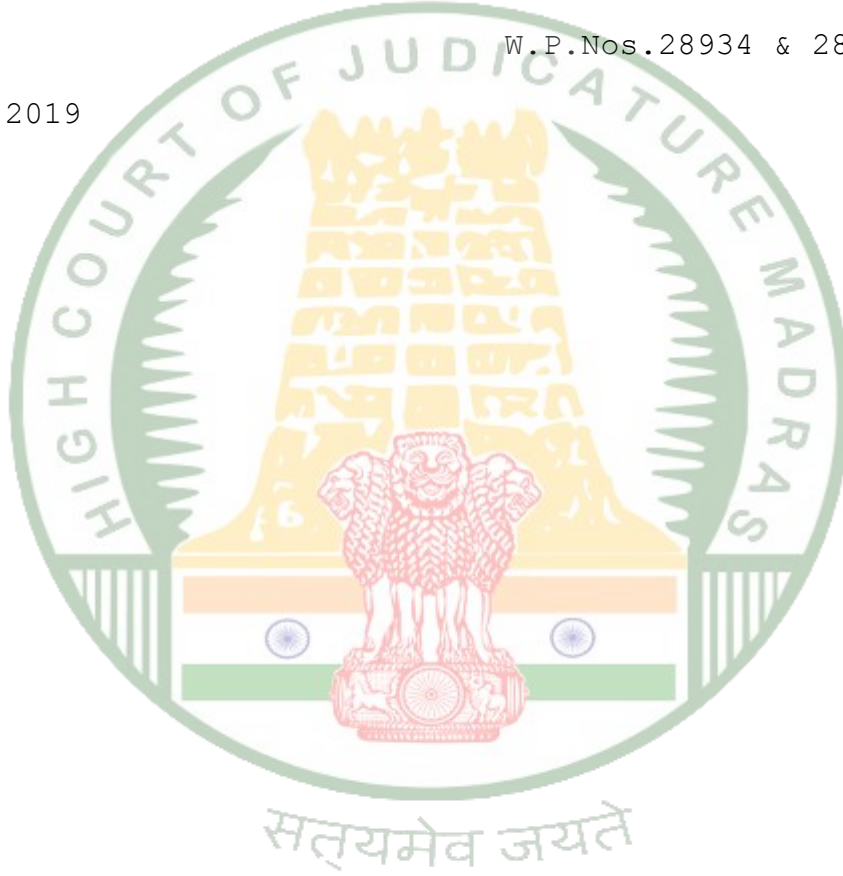
2. The Special Tahsildar,
(Land Acquisition) Unit-IV,
Tamil Nadu Housing Board,
(1st Floor) Nandanam,
Chennai - 600 035.

3. The Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.

+1 cc to Mr.S.Thangavel, Advocate, Sr.No. 35193
+1 cc to The Government Pleader, Sr.No. 34694

W.P.Nos.5013 & 5019 of 2019
and
W.P.Nos.28934 & 28940 of 2018

SR(CO)
CSL/03.06.2019



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