

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2019

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.21101 of 2018

M.Ramakrishnan

.. Petitioner

Vs.

- 1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
- 2.Tamil Nadu Housing Board,
Rep. by its Managing Director,
No.33, Anna Salai,
Nandanam, Chennai - 600 035.
- 3.The Executive Engineer,
Tamil Nadu Housing Board,
Housing Scheme,
Bagalur Road, Hosur,
Krishnagiri District.
- 4.The Tahsildar,
Hosur Taluk Office,
Hosur,
Krishnagiri District.
- 5.The Special Tahsildar,
Land Acquisition,
Hosur Housing Scheme,
Bagalur Road, Hosur,
Krishnagiri District.

.. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent relating to Na.Ka.1589/2018/A2 dated 06.07.2018 quash the same and consequently direct the 4th respondent to issue computerized patta to the petitioner in respect of lands to an extent of 5 cents in Survey No.24/1 of Naligapettai Agaraharam Village, Hosur Taluk, Krishnagiri District within the time to be stipulated by this Hon'ble Court without insisting upon No Objection Certificate from the 2nd respondent.

For Petitioner : Mr.R.Bharath Kumar

For RR1, 4 & 5 : Mr.V.Shanmugasundar
Special Government Pleader

For RR2 & 3 : Mr.V.Anandamurthy
Standing Counsel

ORDER

The Writ Petition is filed challenging the proceedings in Na.Ka.1589/2018/A2 dated 06.07.2018 on the file of the fourth respondent and quash the same and consequently direct the fourth respondent to issue computerized patta to the petitioner in respect of lands to an extent of 5 cents in Survey No.24/1 of Naligapettai Agaraharam Village, Hosur Taluk, Krishnagiri District without insisting upon No Objection Certificate from the second respondent.

2. The case of the petitioner is that he purchased lands measuring an extent of 0.02.0 hectare (5 cents) comprised in Survey No.24/1A situated at Naligabetta Agraharam Village, Hosur Taluk, Krishnagiri District. It is submitted that the first respondent issued Notification under Section 4(1) of Land Acquisition Act, 1894 proposing to acquire the said lands. On coming to know the said acquisition, M/s.Rajalakshmi Industries, in which, the petitioner is one of the partners, submitted an objection dated 14.10.1991 for exclusion of their industrial unit from acquisition, which is adjacent to the petitioner's land. But without considering the objection and conducting enquiry, the first respondent issued Section 6 declaration. Hence, a writ petition in W.P.No.12982/1994 was filed against the said acquisition proceedings. The writ petition was allowed quashing the land acquisition proceedings more particularly Section 4(1) notification as well as Section 6 declaration in respect of the subject land. Even after quashing of the land acquisition proceedings, the Revenue Tahsildar has not deleted the name of Tamil Nadu Housing Board from the revenue records and incorporated the petitioner's name. Therefore, a representation was given on 06.11.2017 to the respondents requesting for No Objection Certificate for transfer of patta. On 19.12.2017, the third respondent also informed the petitioner to approach the second respondent for issuance of No Objection Certificate as the second respondent is the competent authority. While so, W.P.No.899 of 2018 seeking mandamus was filed by the petitioner against the fourth respondent to issue patta. By order dated 12.01.2018, this Court directed the fourth respondent to consider his representation. Admittedly, the Survey Number was wrongly mentioned and therefore, his

request/representation was rejected insisting on the No Objection Certificate to be obtained from the Tamil Nadu Housing Board. Against the said order, the present Writ Petition has been filed.

3. Heard the learned counsels appearing on both sides.

4. The learned Standing Counsel appearing for the Tamil Nadu Housing Board had filed a Counter, in which, it is stated that at the time of acquisition, the lands in S.No.24/A1 was sub divided as 24/1A1 and 24/1A2 and the Housing Board has taken the lands in S.No.24/1A2 and fully utilized the same. The compensation amount was also given to the Land Acquisition Officer for making payment. In respect of lands in S.No.24/1A1, there is no mention as to whether the Tamil Nadu Housing Board had taken possession or not.

5. Admittedly, S.No.24/A1 has been sub divided into 24/1A1 and 24/1A2. As the petitioner has not given correct Survey Number without adverting to the sub division, that was made later, the Tahsildar also demanded for No Objection Certificate. Now, in view of the submission of the Housing Board, the petitioner can apply afresh for No Objection Certificate to the second and third respondents, who may consider the application and issue No Objection Certificate. However, the petitioner has to clearly mention the extent of land that is available in S.No.24/1A1 by getting the land surveyed and taking the exact extent in his possession.

6. As stated above, admittedly, the Housing Board's counter-affidavit is silent about S.No.24/1A1 and only land acquisition proceedings with respect to land in Survey No.24/1A2 concluded. Hence, the Housing Board could not any objection in granting patta to the petitioner in respect of S.No.24/1A1. However, the Tahsildar has rejected to grant patta for non production of No Objection Certificate from the Housing Board. In such view of the matter, the fourth respondent is directed to issue the patta in favour of the petitioner with respect to the land in Survey No.24/1A1, if otherwise everything is in order, after giving notice to all the interested parties and affording them an opportunity of personal hearing.

7. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The Manaing Director,
Tamil Nadu Housing Board,
No.33, Anna Salai,
Nandanam, Chennai - 600 035.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Housing Scheme, Bagalur Road, Hosur,
Krishnagiri District.

4.The Tahsildar,
Hosur Taluk Office,
Hosur, Krishnagiri District.

5.The Special Tahsildar,
Land Acquisition,
Hosur Housing Scheme,
Bagalur Road, Hosur,
Krishnagiri District.

+1cc to Mr.R.Bharathkumar, Advocate Sr.No.7915

AKM/27.09.19 /4P-7C/

W.P.No.21101 of 2018

सत्यमेव जयते

WEB COPY