

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.12165 of 2019

Uma Maheshwari Ramasamy

...Petitioner

Vs.

1. The Tahsildar,
Coimbatore North,
Coimbatore.

2. Tamil Nadu Housing Board,
rep. by its Chairman & Managing Director,
No.331, Anna Salai, 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 grant patta in favour of the petitioner in respect of the petitioner's land measuring 0.63.3/4 comprised in Survey No.349, situated at Kalapatti Village, Coimbatore District and effect consequent mutation of title in all revenue records without insisting NOC from the 2nd respondent within a time to be stipulated by this Hon'ble Court.

For Petitioner : Mr.A.V.Raja

For Respondents : Mr.V.Prabhu,
Government Advocate for R1
Dr.R.Gowri
Standing counsel for R2

O R D E R

The petitioner seeks for a Mandamus directing the first respondent to grant patta in favour of the petitioner in respect of the petitioner's land measuring 0.63.3/4 comprised in Survey No.349, situated at Kalapatti Village, Coimbatore District and effect consequent mutation of title in all revenue records without insisting NOC from the 2nd respondent within the time to be stipulated by this Court.

2. Mr.V.Prabhu, learned Government Advocate takes notice for the first respondent. Mrs.R.Gowri, learned standing counsel takes notice for the second respondent/Housing Board. By consent of the parties, the main writ petition is taken up for final disposal.

3. The petitioner claiming to be owner of the subject matter property, approached the first respondent and sought for grant of patta. However, the first respondent insisted the petitioner to get No Objection Certificate from the second respondent only on the reason that the subject matter lands were originally subjected to acquisition proceedings at the instance of the 2nd respondent Board.

4. The contention of the petitioner before this Court is that though the subject matter land was sought to be acquired by the Housing Board, such acquisition proceedings was quashed by this Court and such acquisition proceedings thus, reached its finality. Therefore, he contended that the Housing Board cannot have any say in the subject matter property warranting issuance of No Objection Certificate for the purpose of getting patta.

5. On the other hand, the learned Standing Counsel appearing for the Housing Board though admitted the fact that as on date, the subject matter property is free from any acquisition proceedings, however, submitted that the subject matter property is lying in the middle of the project already prepared by the Housing Board and therefore, let the Housing Board be permitted to consider the claim of the petitioner to see as to whether the No Objection Certificate can be issued to the petitioner or not. In other words, learned Standing Counsel for the Housing Board contended that it is for the Housing Board consider the claim of the petitioner and decide as to whether he is entitled to get patta in respect of the subject matter property.

6. There is no dispute to the fact that as on today, the subject matter lands are free from any acquisition proceedings. When such being the admitted position, I do not think that the 2nd respondent Board can have any say in the subject matter property, muchless to issue No Objection Certificate for getting patta from the first respondent. If the petitioner is the owner of the land and seeks for issuance of patta at the hands of the first respondent and when the subject matter lands are not under any acquisition proceedings, it is absolutely unnecessary for the petitioner to seek No Objection Certificate from the second respondent, who ceased to have any right over the subject matter lands. Therefore, I am not in a position to accept the contention raised by the learned counsel for the second respondent. Thus, the Writ Petition is allowed and the first respondent is directed to consider the application submitted by

the petitioner for grant of patta without insisting for No Objection certificate from the second respondent and pass appropriate orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (AD-IV)

//True Copy//

vsi

Sub Assistant Registrar

To

1. The Tahsildar,
Coimbatore North,
Coimbatore.

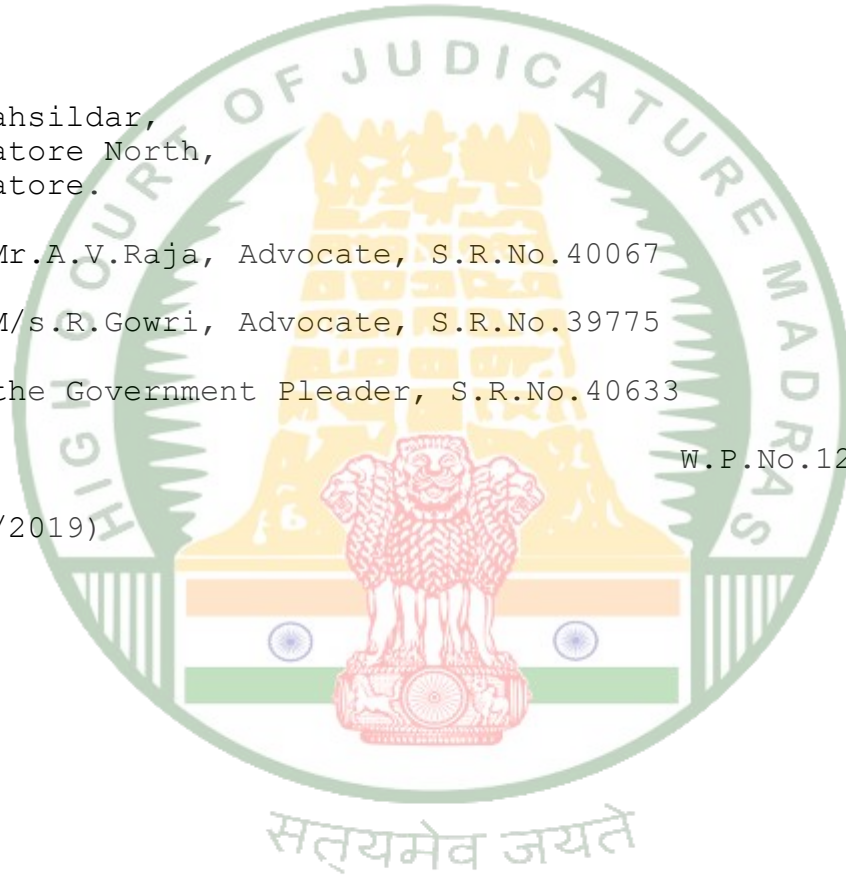
+1 cc to Mr.A.V.Raja, Advocate, S.R.No.40067

+1 cc to M/s.R.Gowri, Advocate, S.R.No.39775

+1 cc to the Government Pleader, S.R.No.40633

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NRJK (CO)
SSM(28/05/2019)



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