



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 18.11.2019	Pronounced on: 26.11.2019
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Coram::

The Honourable Dr.Justice G.Jayachandran

Writ Petition No.24458 of 2019

R.Vadivel,
S/o.E.Rangasamy,
Pillayar Koil Street,
Edhanemili Village,
Melathipakkam Post,
Senji Taluk,
Villupuram District.

... Petitioner

/versus/

1. The Managing Director,
Tamil Nadu Housing Board (TNHB),
No.493, Anna Salai,
Nandanam.
2. The Executive Engineer-cum-Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Unit,
Bagalur Road,
Hosur - 635 109.
Krishnagiri District.
3. The Special Tahsildar (L.A.),
Hosur Housing Unit,
Hosur,
Krishnagiri District.
4. The Tahsildar,
Taluk Office,
Hosur, Krishnagiri District.
5. The Special Tahsildar,
Town Survey and Settlement,
Royakottai Road,
Hosur - 635 109,
Krishnagiri District.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents 4 & 5 herein to transfer the Patta in the name of the Petitioner in respect of housing site bearing Plot No.26 to an extent of 1200 sq.ft comprised in Survey No.928/2 and 929/2 in Ashok Nagar, Hosur Village and Taluk, Krishnagiri District, within the time to be stipulated by this Hon'ble Court based on the Petitioner's representation dated 02.02.2017 without insisting upon No objection Certificate from the respondents 1 & 2 herein and pass orders.

For Petitioner : Mr.K.Govi Ganesan

For R1 & R2 : Dr.R.Gouri,
Senior Counsel for TNHB

For R3 to R5 : Mr.M.Elumalai,
Government Advocate

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioner herein has purchased housing plot situated at Ashok Leyland Employees Housing Society comprising S.Nos.928/2 & 929/2 of Hosur Village, Krishnagiri District under the registered deed dated 21.03.1986 from one V.Arivanadam. After the said purchase, he has applied for sub-division of his plot and obtained necessary sub-division order from the Tahsildar vide the proceedings in Mu.Nu.6/2/95/89-90/C-3, dated 26.07.1989 and he is in physical possession of the subject land ever since his date of purchase. His land is the part of original extent of 3.45 acres of land purchased by Ashok Leyland employees Housing Society and subsequently divided into various housing plots. While so, the Government initiated Land Acquisition proceedings for Tamil Nadu Housing Board to provide housing sites by notifying Section 4(1) of the Land Acquisition Act vide G.O.Ms.No.1459, Housing and Urban Development Department, on 15.11.1991. Subsequently, declaration under Section 6 of the Act was issued in G.O.Ms.No.20, dated 08.01.1993. Thereafter, award enquiry was conducted and award was passed on 13.01.1995. The subject land acquisition was challenged in W.P.No.253 of 1995 which was disposed of on 07.06.2002 giving liberty to the petitioners to approach the Government for re-conveyance of the land under Section 48-B of the Land Acquisition Act, 1894. Accordingly the plot owners gave representation to the Secretary to Government on 23.06.2002 to drop the acquisition proceedings and reconvey the land. The said request of re-conveyance was rejected by the Secretary to the Government on 23.10.2002.

3. Aggrieved by the rejection order, the petitioner and others filed W.P.No.7246 of 2003, wherein, this Court vide order dated 16.12.2009 directed the petitioner to submit their representation to the Secretary to the Government, within a period of 15 days and same shall be disposed of by the Secretary, within a period of six weeks thereafter. Again their request was rejected stating that the land in S.Nos.928/2 & 929/2 are required for formation of road to have access to Neighborhood Housing Scheme Phase XVI. This is the same reason which was earlier assigned by the Secretary to the Government. Thereafter, in view of Right to Fair Compensation Transparency Land Acquisition and Rehabilitation and Resettlement Act - 2013. They filed Writ Petition in W.P.17495 of 2014 to declare the acquisition proceedings has got lapsed in view of Section 24(2) of the above Act. This Writ Petition was allowed on 09.12.2014 by the Single Judge and the respondents have not preferred any appeal. Pursuant to the said order, the petitioner has sent a representation on 20.04.2016 seeking transfer of patta in his name. However, the 4th respondent has instructed to get NOC from the Housing Board for transfer of Patta. Since the acquisition proceedings has attained finality in view of the order passed in W.P.No.17495 of 2014 the question of insisting on 'No Objection Certificate' from Housing Board does not arise and the 4th respondent has no authority or power to insist upon such NOC. Hence, the land owners filed W.P.No.33915 of 2016, to consider their representation for transfer of patta. This Writ Petition was dismissed on the ground that such representation cannot be made by the Association of individuals. Hence, the present Writ Petition seeking transfer of patta in respect of the land bearing Plot No.26 to an extent of 1200 sq.ft comprising in S.Nos.928/2 & 929/2.

4. The Learned Standing Counsel appearing for the Housing Board has filed a detailed counter, wherein, it is stated that the land in dispute was already taken possession by the Housing Board soon after completion of acquisition proceedings. The land has been promoted to Housing sites and has allotted land to the public and they have constructed houses. The petitioner and others earlier sought for re-conveyance of the land acquired but same was rejected by the Government. The petitioners having admitted that the respondents have taken possession, sought for re-conveyance and same was rejected, but suppressing the fact they filed W.P.No.17495 of 2014 as if possession was not taken and the benefit of Section 24(2) of the Act is applicable to them. The Learned Single Judge allowed the Writ Petition however, same is now under challenged in the intra Court appeal.

5. As far as the subject land is concerned, it is merged with the Housing Board area and lands have been subdivided. The piece of land which the petitioner claim right is presently unidentifiable. As per the approved layout, part of the development works were completed in subject land and most of the plots allotted to the public have constructed and enjoying the same with 50 feet Tar roads, OHD, park peacefully. The patta and physical possession of the land are with Housing Board contrary to their earlier stand of seeking re-conveyance of land, they pleaded before the Single Judge that possession was not taken and based on that submission, the Single Judge passed order in W.P.No.17495 of 2014.

6. The petitioner herein filed similar Writ Petition seeking Special Tahsildar, Hosur to consider his representation dated 20.04.2016 for transfer of patta of subject land without insisting NOC from the Tamil Nadu Housing Board. The Said Writ Petition in W.P.No.33915 of 2016 was dismissed on 27.09.2016.

7. In the light of subsequent judgment in W.P.No.33915 of 2016 dated 27.09.2016 and in view of the appeal preferred against W.P.No.17495 of 2014 dated 09.12.2014, the Learned Standing Counsel for the Housing Board would submit that the petition is liable to be dismissed.

8. The contention of the petitioner herein is that, he purchased 1200 sq.ft of land vide sale deed dated 21.03.1986 from Mr.Arivanadam and M.Arumugam. Section 4(1) notification under G.O.Ms.No.1459, Housing and Urban Development Department, dated 15.11.1991 mentions the name of the petitioner as owner to an extent of 0.005 ars of land in S.No.928-2C. The petitioner has participated in the 5(A) enquiry proceedings and under Section 6 declaration, dated 08.01.1993 were also published in the Gazette dated 11.01.1993 mentioning the name of the petitioner along with other owners. Later award for the land has also been deposited, some of the land owners have received the award, some have not received. Therefore, the money has been deposited in the Sub Court account on 18.03.1997 in Award No.1/95.

9. While fact being so, the petitioner and others repeatedly have approached this Court for different relief but have not succeeded except for one Writ Petition, which is also said to be under challenge and pending. In any event, it is an admitted case of the petitioner that, the Land Acquisition proceedings has reached finality and they filed petition for re-conveyance which was rejected by the Government. In such circumstances, the Housing Board has already acquired the land, developed the same and the exact location of the petitioner's

land has become unidentifiable. The existing layout under the Housing Board Scheme can no way be distributed and if the land is unidentifiable and the Patta vested with the Housing Board cannot be changed. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

bsm

To,

1. The Managing Director,
Tamil Nadu Housing Board (TNHB),
No.493, Anna Salai,
Nandanam.
2. The Executive Engineer-cum-Administrative Officer,
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5. The Special Tahsildar,
Town Survey and Settlement,
Royakottai Road,
Hosur - 635 109,
Krishnagiri District.

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.98714

+1cc to Government Pleader SR.No.98912

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PA (CO)
GMY (03/01/2020)

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