

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.32201 of 2018

N.Varghese

... Petitioner

Vs.

1.Tamil Nadu Housing Board,
Rep. By its Chairman,
Nandanam,
Chennai - 600 035.

2.The Commissioner,
Pallavapuram Municipality,
Chennai - 600 044.

3.The Chairman,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
Egmore, Chennai-600 008.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the second respondent and quash the proceedings of the second respondent in Na.Na.Ka.4600/2018/F1 dated 08.11.2018 and consequently direct the second respondent to process the application of the petitioner dated 10.08.2017 for regularization of Plot No.9, 10, 11 in survey No.305/5 situate in Old No.155, Killkattalai Village, Tambaram Taluk without insisting on "No Objection Certificate" from the first respondent for processing the same.

For Petitioner : Mr.R.Ramanlaal

For Respondents : Mr.Vivekavanam for R-1
Standing Counsel for
TNHB
Mr.P.Srinivas for R-2
Standing Counsel
Mr.P.S.Ganesh for R-3
Standing Counsel

O R D E R

This writ petition has been filed challenging the notice issued by the second respondent/Pallavapuram Municipality, directing the petitioner to obtain NOC from the Tamil Nadu Housing Board, that the land is not subject to any acquisition proceedings, for the purpose of regularization of unapproved layout.

2. According to the petitioner, he is the owner of the house sites in Plot No.9, 10, 11 in Survey No.305/5 situate in Old No.155, Killkattalai Village, Tambaram Taluk. Since the above house sites are in an unapproved layout, the petitioner filed an application seeking for regularization of the above unapproved layouts, as per the guidelines issued in G.O.(Ms).No.78, Housing and Urban Development [UD4(3)] Department dated 04.05.2017. Now, the second respondent Municipality in order to consider the application, seeking a NOC from the Tamil Nadu Housing Board, stating that the land is not subjected to any land acquisition proceedings.

3. Mr. R. Ramanlal, the learned counsel appearing for the petitioner would submit that earlier a land acquisition proceeding has been initiated for the formation of Pallavapuram Neighbourhood Scheme, and a notification under Section 4(1) of the Land Acquisition Act has been issued on 28.09.1991 and subsequently a Declaration under Section 6 of the Land Acquisition Act was also issued. Challenging the above said notification, the petitioner's vendor one Deivayanai Ammal filed the Writ Petition in W.P.No.6496 of 2002 before this Court. This Court, by order dated 09.04.2010, allowed the writ petition, set aside the entire land acquisition proceedings, and so far no appeal has been filed by the Tamil Nadu Housing Board and the State Government. In the said circumstances, as on today, there is no land acquisition proceedings is pending and there is no necessity to get NOC from the Tamil Nadu Housing Board.

4. Earlier, notice was ordered to the respondents and this Court directed the learned standing counsel appearing for the Tamil Nadu Housing Board to get instructions whether any appeal has been filed against the order passed by this Court in W.P.No.6496 of 2002.

5. Today, when the matter came up for hearing, the learned standing counsel appearing for the Tamil Nadu Housing Board, on instructions, submitted that the Tamil Nadu Housing Board filed

the Writ Appeal in SR.1313 of 2011 against the order of this Court in W.P.No.6496 of 2002. So far the appeal has not numbered and the same is pending.

6.Considering the fact that this Court, by order dated 09.04.2010, in W.P.No.6496 of 2002, set aside the acquisition proceedings. Even though a Writ Appeal said to have filed in the year,2011, so far the Tamil Nadu Housing Board did not move the Writ Appeal. In the above circumstances, as the land acquisition proceedings has been set aside by this Court, there is no necessity to obtain any NOC from the Tamil Nadu Housing Board. In the above circumstances, the impugned order passed by the second respondent dated 08.11.2018 is set aside in respect of the direction to obtain NOC from the Tamil Nadu Housing Board. However, it is open to the second respondent to insist upon the other two conditions mentioned in the said impugned order.

7.With the above observation, the writ petition is allowed.
No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
- 2.The Commissioner,
Pallavapuram Municipality,
Chennai - 600 044.
- 3.The Chairman,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
Egmore, Chennai-600 008.

+1cc to Mr.B.Viveka Vanan, Advocate sr.7384
+1cc to Mr.P.Srinivas, Advocate sr.8144
+1cc to Mr.R.Ramanlal, Advocate Sr.7253

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srg 11/03/2019