

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

WP.No.3465 of 2020

Mrs. H. Vijayalakshmi

.. Petitioner

Vs.

1. Chennai Metropolitan Development Authority,
represented by its Member-Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.
 2. Tamil Nadu Housing Board,
rep. By its Managing Director,
No.493, Anna Salai,
Nandanam, Chennai 600 035.
- ..Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Mandamus to call for the entire records of the first respondent ending with his letter No.R2/11734/2019 dated 9.1.2020 and quash the same and direct the first respondent to consider the petitioner's application in APU No.R/2019/000161 dated 12.7.2019 without insisting on No Objection Certificate from the Second Respondent for reclassification of the land use and by granting Planning Permission Approval for development in the site in Plot No.7, Arcot Road, Sapthagiri Nagar, comprised in Old Survey No.4/3, present Survey No.4/3A10, Porur Village, Maduravoyal Taluk, Thiruvallur District.

For Petitioner : Mr.Duraikkan S. Phillip

For Respondents: Mrs. Veera Suresh, Standing Counsel
Mr. Baskaran, Standing Counsel

O R D E R

This Writ Petition has been filed challenging the impugned letter issued by the 1st respondent, dated 9.1.2020, wherein, the petitioner was directed to get a No Objection Certificate from the Tamil Nadu Housing Board for the purpose of considering the application filed by the petitioner who is seeking for re-classification of land use and for granting Planning Permission Approval for the development of the property.

2. Heard Mr.Duraikkan S. Phillip, learned counsel for the petitioner and Mrs. Meera Suresh, learned Standing Counsel appearing for the 1st respondent and Mr. Baskaran, learned Standing Counsel appearing for the 2nd respondent.

3. It is seen from the records that the acquisition proceedings have been quashed by this Court as early as in the year 1996 itself. The very same petitioner had earlier approached this Court and filed W.P.Nos.30189 and 30190 of 2004 and challenge the authorities insisting for a No Objection Certificate from Tamil Nadu Housing Board. It is with regard to plan sanction that was sought for Plot Nos.54, 55 and 56 and 7. This court passed the following order on 27.4.2009.

'2. The learned counsel appearing on behalf of the petitioner had submitted that several orders have been passed by this Court directing the concerned town panchayat to consider the applications for plan sanction without insisting for the production of a No Objection Certificate from the Tamil Nadu Housing Board. On such order has been passed by a learned Single Judge of this Court, in W.P.No.15 of 2009.

3. The learned counsel appearing on behalf of the respondent had not refuted the statements made by the learned counsel for the petitioner.

4. Hence, the respondent is directed to consider the applications of the petitioner, dated 13.08.2004 and 12.07.2004, for plan sanction in respect of Plot Nos.54, 55 and 56 in Survey Nos.5/4,5/3 and Plot No.7 in Survey No.4/3, respectively, in Sapthagiri Nagar, Porur, Chennai, without insisting on a No Objection Certificate from the Tamil Nadu Housing Board.'

4.The earlier order passed by this Court on 27.4.2009 binds upon the respondents in this writ petition. In spite of the same, the 1st respondent has insisted for a No Objection Certificate from Tamil Nadu Housing Board with respect to Plot No. 7. This

plot is covered by the earlier order passed by this Court.

5. The 1st respondent has filed a counter. The relevant portions in the counter is extracted hereunder;

'7. I also submit that the proposal was once again placed before the Technical Committee in the meeting held on 06.01.2020 and the minutes of the meeting is as follows: "The Technical Committee discussed the subject in detail. The Committee observed that the Tamil Nadu Housing Board has offered remarks that the site is in the list of acquisition by TNHB for which 4(1) Award has been passed but it is not 'taken over' and the applicant may obtain NOC from TNHB for further processing. The Committee decided to direct the applicant to obtain NOC from Tamil Nadu Housing Board (TNHB) to consider reclassification."

'8. I submit that based on the decision of Technical Committee, the petitioner was requested to obtain NOC from TNHB, in CMDA letter No.R2/11734/2019, dated 09.01.2020. Infact the petitioner was requested to furnish NOC from TNHB based on the remarks of TNHB in letter dated 20.12.2019. Moreover, it is to be noted that the Chief Engineer, TNHB, is a member of the Technical Committee meeting held on 06.01.2020 and it was in the same meeting, the decision to direct the applicant to obtain NOC from TNHB to consider reclassification was taken. Therefore, CMDA in letter dated 09.01.2020 requested the petitioner to furnish NOC from TNHB and thus the contentions of the petitioner are not correct.'

6. In the considered view of this Court, the 1st respondent has mechanically directed the petitioner to obtain a No Objection Certificate from the Tamil Nadu Housing Board. The 1st respondent ought to have taken into consideration the earlier orders passed by this Court with regard to the same petitions. The 1st respondent was insisting the petitioner to get a No Objection Certificate from the 2nd respondent who is nothing to do with the property by virtue of the fact that the acquisition proceedings itself has been quashed.

7. In view of the above discussion, this Court has no hesitation to interfere with the letter issued by the 1st respondent dated 9.1.2020 and the same is accordingly quashed. The 1st respondent is directed to consider the application submitted by the petitioner on 12.7.2019 without insisting on a

No Objection Certificate from the Tamil Nadu Housing Board and pass necessary orders within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is allowed with the above directions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr
To

1.The Member Secretary
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

2.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai 600 035.

+1 cc to M/s.Veena Suresh, Advocate Sr.No. 31899

SSI (CO)
RMP (21/10/2020)

WP.No.3465 of 2020

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