

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.Nos.24667 and 7258 of 2013  
and M.P.No.1 of 2013  
in W.P.No.24667 of 2013

M.P.Kumar ... Petitioner in both W.Ps

Vs.

1.The Chairman,  
Tamil Nadu Housing Board,  
No.493, Anna Salai,  
Nandanam, Chennai

... 1<sup>st</sup> respondent in  
W.P.No.24667/2013 and  
respondent in W.P.7258/2013

2.The Sub Collector,  
Kaniyakumari District,  
Kaniyakumari.

3.The Village Administrative Officer,  
Nagercoil Village,  
Agastheeswaram Taluk,  
Kaniyakumari District.

... Respondents 2 & 3 in  
W.P.No.24667/2013

W.P.No.24667 of 2013 filed under Article 226 of the Constitution of India for issuing a writ of mandamus forbearing the respondents from interfering with the petitioner's possession of his lands measuring 0.16.99.661 hectares comprised in T.S.No.N3/11-4 of Nagercoil, Agastheeswaram Taluk, Kaniyakumari District and granting patta in respect of the land in favour of the 1<sup>st</sup> respondent unless under due process of law.

W.P.No.7258 of 2013 filed under Article 226 of the Constitution of India for issuing a writ of mandamus directing the respondent to issue No Objection Certificate in favour of the petitioner in respect of the land measuring 0.16.99.661 hectares, Nagercoil, Agastheeswaram Taluk, Kaniyakumari District comprised in T.S.No.N3/11-4 considering the representation of the petitioner dated 06.12.2012.

For Petitioner : Mrs.S.Vijayalakshmi  
(in both W.Ps)

For Respondents: Mr.R.Bharath Kumar  
R1 - W.P.No.24667/2013 and  
Respondent - W.P.No.7258/2013

Ms.A.Madhumathi,  
Special Government Pleader  
(R2 & R3 - W.P.No.24667/2013)

#### C O M M O N    O R D E R

Since the issues involved in both the Writ Petitions are common, both the Writ Petitions are disposed of by this common order.

2.W.P.No.7258 of 2013 has been filed by the petitioner to issue a Writ of Mandamus directing the respondent to issue No Objection Certificate in favour of the petitioner in respect of the land measuring 0.16.99.661 hectares in Nagercoil, Agastheeswaram Taluk, Kaniyakumari District comprised in T.S.No.N3/11-4 considering the representation of the petitioner dated 06.12.2012. W.P.No.24667 of 2013 has been filed by the petitioner to issue a Writ of Mandamus forbearing the respondents from interfering with the petitioner's possession of his lands measuring 0.16.99.661 hectares comprised in T.S.No.N3/11-4 of Nagercoil, Agastheeswaram Taluk, Kaniyakumari District and granting patta in respect of the land in favour of the 1<sup>st</sup> respondent unless under due process of law.

3.When the Writ Petitions are taken up for hearing, Mrs.S.Vijayalakshmi, learned counsel appearing for the petitioner submitted that originally the petitioner's lands were acquired by the Government, however, the entire acquisition proceedings were quashed by the Division Bench of this Court in W.A.No.2471 of 2012 [The Chairman, Tamil Nadu Housing Board, Anna Salai, Nandanam, Chennai - 600 035 Vs. 1.Ulaganathan, 2.The Secretary to Government, Housing & Urban Development Dept., Government of Tamil Nadu, Secretariat, Fort St.George, Chennai - 600 009 and 2 others] dated 08.11.2012 wherein the Division Bench held as follows:

"...

8.Thus, on and after the order passed by the Division Bench dated 23.03.2007, the entire acquisition proceedings stood quashed. Therefore, there was no need or occasion for the respondent/writ petitioner to challenge the land acquisition proceedings, which had already been quashed. Therefore, the prayer sought for by the

respondent/writ petitioner to issue no objection certificate, was perfectly justified."

4.From the above, it is clear that the entire acquisition proceedings were quashed and further, the Division Bench observed that there was no need or occasion for the writ petitioner to challenge the land acquisition proceedings, which had already been quashed. Further, the Division Bench observed that the prayer sought for by the writ petitioner to issue No Objection Certificate, was perfectly justified.

5.Mr.R.Bharath Kumar, learned counsel appearing for the 1<sup>st</sup> respondent/Tamil Nadu Housing Board submitted that the petitioner is a subsequent purchaser and that the acquisition proceedings were not challenged, either by the petitioner or by his vendor and that the Tamil Nadu Housing Board had also deposited the compensation amount. Further, the learned counsel submitted that the Tamil Nadu Housing Board had taken possession of the property.

6.However, Mrs.S.Vijayalakshmi, learned counsel appearing for the petitioner disputed the contention of the learned counsel appearing for the 1<sup>st</sup> respondent and submitted that the petitioner is in possession and enjoyment of the property and that the 1<sup>st</sup> respondent had not taken possession of the property so far.

7.As far as the filing of the Writ Petition challenging the acquisition notification is concerned, the Division Bench had categorically held that since the entire acquisition proceedings were quashed, there is no necessity for filing a separate Writ Petition challenging the acquisition proceedings.

8.The ratio laid down by the Division Bench squarely applies to the facts and circumstances of the present case and therefore, the contention of the learned counsel for the 1<sup>st</sup> respondent cannot be accepted.

9.It is not in dispute that the acquisition proceedings, which is the subject matter in the Writ Appeal and the acquisition proceeding initiated in respect of the petitioner's land, are under the same notification. Therefore, the prayer sought for in these Writ Petitions are covered by the decision of the Division Bench made in the Writ Appeal.

10. In such view of the matter, the petitioner is entitled to get the No Objection Certificate from the Tamil Nadu Housing Board and the respondents have no right to interfere with the petitioner's possession in respect of his lands mentioned in the petition. The 1<sup>st</sup> respondent is directed to issue No Objection Certificate to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

11. With these observations, the Writ Petitions are allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman,  
Tamil Nadu Housing Board,  
No.493, Anna Salai,  
Nandanam, Chennai.

2. The Sub Collector,  
Kaniyakumari District,  
Kaniyakumari.

3. The Village Administrative Officer,  
Nagercoil Village,  
Agastheeswaram Taluk,  
Kaniyakumari District.

+1cc to Mr.D.Rajagopal, Advocate SR.No.27293

+1cc to Government Pleader, High Court, Madras SR.No.27416

W.P.Nos.24667 and 7258 of 2013  
and M.P.No.1 of 2013  
in W.P.No.24667 of 2013

AJS (CO)  
GMY (28/08/2020)