

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.12828 of 2020

S.Muthukumar

... Petitioner

Vs.

1. The Tahsildar,
Maduravoyal Taluk,
Gangayamman Kovil Street,
Alappakkam,
Chennai-600 116.
2. The Tamil Nadu Housing Board,
Rep. By its Managing Director,
No.493, Anna Salai,
Nandanam, Chennai-35.
3. The Special Tahsildar,
Tamil Nadu Housing Board,
KK Nagar Division, Chennai.
4. The Secretary,
Housing and Urban Development Department,
Chennai-600 009.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents herein to consider the petitioner's application No.2020/0105/02/255323 dated 03.03.2020 and to grant patta in the name of the petitioner in respect of Door No.14, Srilakshmi Nagar, 2nd Street, Alwarthirunagar, Chennai 600 087 of an extent of 2.75 cents Comprised in S.No.373/2A, Nerukundram Village, Maduravoyal Taluk, Tiruvallur District.

For Petitioner : Mr.M.Prem Raj

For Respondents: Mr. Annai Ezhil
Government Advocate

O R D E R

This writ petition has been filed for the issue of a Writ of Mandamus directing the first respondent to consider the application submitted by the petitioner wherein the petitioner has sought for issuance of patta in his name.

2. The case of the petitioner is that the subject property along with larger extent of lands became a subject matter of acquisition by the Tamil Nadu Housing Board. The 4(1) Notification was issued in the year 1975 and Section 6 declaration was issued in the year 1978. The acquisition became a subject matter of challenge before this Court and the same was quashed by this Court.

3. A batch of writ petitions were filed before this Court by the respective owners of the property wherein they had sought for the grant of patta without insisting for No Objection Certificate [NOC] from the Housing Board. This Court disposed of the writ petitions in W.P.Nos.8979 of 2018 etc., by an order dated 16.09.2019. The relevant portions of the order are extracted hereunder:

'2. It is the case of the petitioners that originally Section 4(1) Notification was issued for acquisition of the lands on 11.06.1975 and 09.06.1978 in G.O.Rt.No.124 Housing, dated 08.05.1975 and G.O.Ms.Nos.996, 993, 994 Housing, dated 07.06.1978. Challenging the Notification issued under Section 4(1) and 6 of the Land Acquisition Act, the land owner preferred writ petitions in W.P.Nos.8370 and 8371 of 1986 and the Division Bench of this Court, by order dated 21.01.1988 allowed the writ petitions and quashed the declaration under Section 6 of the Act and directed the authorities to conduct enquiry under Section 5A of the Act afresh.

3. Thereafter, the petitioner in W.P.No.8371 of 1986 preferred a writ petition in W.P.No.18379 of 1991 challenging Section 4(1) Notification dated 11.06.1995. This Court, by order dated 01.07.1999 quashed the Section 4(1) Notification dated 11.06.1975 and allowed the writ petition. In para 3 of the order passed in the said writ petition, this Court also recorded that the possession of the land was handed over to the Tamil Nadu Housing Board on 25.07.1986.

4. The petitioners, after their purchase from the original land owner, had applied for issuance of patta before the first respondent. The first respondent

directed the petitioners to get No Objection Certificate from the Tamil Nadu Housing Board for the reason that the land was acquired by the Tamil Nadu Housing Board.

5. The learned counsel for the petitioners submitted that once Section 4(1) Notification has been quashed by this Court, the Housing Board has no right over the acquired lands. Admittedly, neither the Housing Board nor the State Government have challenged the orders passed in the earlier writ petitions. Therefore, according to the learned counsel for the petitioners, the order passed in W.P.Nos.8370 and 8371 of 1986, dated 21.01.1988 and in W.P.No.18379 of 1991, dated 01.07.199 have become final.

6. Mr.Vivekavanam, learned Standing Counsel appearing for the Tamil Nadu Housing Board, submitted that the Housing Board had taken possession of the land, as early as on 25.07.1986 and also deposited the Award amount before the Civil Court. The learned Standing Counsel further submitted that Award was passed on 30.05.1986 in Award No.1 of 1986. In these circumstances, the learned Standing Counsel appearing for the Housing Board submitted that the possession is still with the Housing Board and the petitioners have no right to get patta from the first respondent."

4. The petitioner is also similarly placed like the other petitioners in whose favour the above order was passed by this Court. Therefore, the petitioner has sought for the relief of directing the Tahsildar to consider the application for grant of patta without insisting for NOC from the housing board.

5. Mr.Annai Ezhil, learned Government Advocate appearing on behalf of the first respondent submitted that the first respondent has already fixed a date of enquiry on 07.10.2020 at 11.00 AM. The learned counsel submitted that the request made by the petitioner will be considered in accordance with law.

6. Taking into consideration the facts and circumstances of the case and the limited relief sought for in this writ petition, there shall be a direction to the first respondent to consider the application submitted by the petitioner seeking for patta, in line with the earlier orders passed by this Court in W.P.Nos.8979 of 2018 etc., and pass orders strictly in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
Maduravoyal Taluk,
Gangayamman Kovil Street,
Alappakkam,
Chennai-600 116.
2. The Managing Director,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai-35.
3. The Special Tahsildar,
Tamil Nadu Housing Board,
KK Nagar Division, Chennai.
4. The Secretary,
Housing and Urban Development Department,
Chennai-600 009.

+1 cc to The Government Pleader, Sr.No. 32657

SSD(CO)
RMP(20/01/2021)

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W.P.No.12828 of 2020

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