

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.9214 of 2013

V.Thiraviam

..Petitioner

Vs.

The Chairman,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai-35.

..Respondent

Prayer: Writ Petition 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 his dry lands measuring 19.5 cents comprised in TS No.N3/12-2B of Nagercoil village, Agastheeswaram Taluk, Kanniyakumari DsitRICT and considering the representation dated 06.12.2012.

For Petitioner : M/S.S.Vijayalakshmi

For Respondent : Mr.R.Bharathkumar

O R D E R

The instant Writ Petition is filed seeking a direction to the respondent to issue No Objection Certificate in favour of the petitioner in respect of his dry lands measuring 19.5 cents comprised in TS No.N3/12-2B of Nagercoil village, Agastheeswaram Taluk, Kanniyakumari DsitRICT and considering the representation dated 06.12.2012.

2. The Petitioner claims to be the owner of dry lands measuring 19.5 cents comprised in Survey No. N3/12-2B of Nagercoil village, Agastheeswaram Taluk, Kanniyakumari DsitRICT. It is stated that a notification under Section 4(1) of Land Acquisition Act 1894 was issued in G.O.Ms.No.1212 dated 17.09.1991 proposing to acquire the land measuring 1.03.59.984 hectares in Nagercoil village, Agastheeswaram Taluk, Kanniyakumari DsitRICT for the purpose of neighbourhood scheme by the Tamil Nadu Housing Board. It is further stated that G.O.Ms.No.786 (Housing and Urban Development) dated 23.11.1992 under section 6 of the Land Acquisition Act 1894 was issued. According to the petitioner, an extent of 19.5 cents comprised in T.S.No.N3/12-2B belonging to the petitioner was also covered under the aforesaid proceedings.

3. The Petitioner further states that the land acquisition proceeding was quashed in the writ proceedings filed by the affected parties, whose lands were acquired. As the respondent is also not interested in commencing the neighbourhood scheme, the proceedings has been dropped. The petitioner sent a representation dated 17.03.2008 requesting the respondent to re-convey the land belonging to the Petitioner. Since the representation is not considered, the Petitioner filed W.P.No.21940 of 2008 which was ordered by this Hon'ble court on 06.09.2008 directing the respondent to consider the representation on merits. Pursuant to the direction issued by this court, the Government had rejected the request of the petitioner to re-convey the land by an order dated 22.01.2009. Once again the petitioner filed W.P.No.2506 of 2010 challenging order of rejection which was confirmed by this Court on 29.03.2010.

4. While so, it is stated that in W.P.No.1561 of 1993 by order dated 21.03.2000 the acquisition proceedings relating to G.O.Ms.No.1212 (Housing and Urban Development Department) dated 17.09.1991 was quashed. In view of the same, the petitioner approached the respondent to issue No Objection Certificate. As there was no response, the Writ Petition has been filed.

5. The Writ Petition is resisted by the respondent by filing a counter excepting on the grounds that specifically admitted. It is stated that it is true that the lands measuring about 19.5 cents comprising in TS No.N3/12-2B of Nagercoil village, Agastheeswaram Taluk, Kanniyakumari District belonging to the Petitioner was acquired for the formation of neighbourhood scheme by Tamil Nadu Housing Board by issuing notification under Section 4(1) dated 17.09.1991 vide G.O.Ms.No.1208. Pursuant to the same, the declaration under Section 6 of the Land Acquisition Act 1894 was issued on 23.11.1992 vide G.O.Ms.No.786 of Housing and Urban Development Department. The compensation also was awarded to the Petitioner under Section 11 of the Land Acquisition Act, vide award No.5/94-95 dated 23.11.1992. The Compensation amount was determined at Rs.68,225/- in respect of the petitioner's land. After the said acquisitions, the lands were handed over to the respondent on 13.02.1995. Thereafter, the respondent formed a residential lay-out by getting necessary approval and permissions from the local development authority, vide approval No.234 of 2004. As per the lay-out, the land acquisition is earmarked as park area.

6. The Respondent has further stated that the Petitioner's land is not covered under G.O.1212 dated 17.09.1991, but the same was covered under G.O.Ms.No.1208. It is correct to state that G.O.Ms.No.1212 was quashed by this Court in W.P.No.1561 of 1993 on 21.03.2000. Therefore, the respondent has already formed

the lay-out excluding those lands which are covered under G.O.Ms.No.1212. The representation made by the petitioner on 17.03.2008 requesting the respondent to re-convey the land was already rejected on 22.01.2009. The Writ Petition filed challenging the said order in W.P.No.2516 of 2010 also met with the same fate.

7. From the above facts, it is clear that the petitioner has come to this court with unclean hands by suppressing the facts that his lands were acquired under G.O.Ms.No.1208 dated 17.09.1991 which was not quashed. The Section 6 declaration with respect to the petitioner land was issued in G.O.Ms.No.786 dated 23.11.1992 and compensation was also awarded under Section 11 of the Land Acquisition Act in award No.5/94-95 dated 23.11.1992. The Petitioner has suppressed the above facts and has come to this court seeking No Objection Certificate. As the lands belonging to the petitioner was acquired and utilized for the purpose of formation of neighbourhood scheme, the claim of the petitioner for issuance of No Objection Certificate is not maintainable. Hence, the same deserves to be dismissed.

8. In the result, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Srn
To

The Chairman,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai-35.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.38805
+1cc to Mr.R.Bharathkumar, Advocate, S.R.No.38759

br(CO)
rv(08/01/2021)

W.P.No.9214 of 2013

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