

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :01.10.2020
CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.13914 of 2020
and WMP No.17296 of 2020

1. P.Esakkimuthu
2. M.Balakrishnan
3. V.M.Dharani
4. R.Muthuswamy
5. Annamalai Ammal
6. E.Kasthuri
7. E.Sathish Kumar
8. E.Venkateswaran
9. E.Kokila
10. N.Vasanthi

..Petitioner

Vs.

1. The Tahsildar,
Maduravoyal Taluk,
Alapakkam, Chennai 600 116.
2. Tamil Nadu Housing Board,
Rep. by its Managing Director,
493, Annasalai, Nandanam,
Chennai 600 035

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to process the petitioners applications for patta dated 04.09.2020 and grant patta for the petitioners plots situated in the layout called Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai - 87 comprised in Survey Nos.373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, Maduravoyal Taluk, Chennai District without insisting insisting no-objection from the 2nd respondent, within a time frame as may be fixed by this Court.

For Petitioner
For Respondents

: Mr.K.Karthick Jagannath
: Mr.S.N.Parthasarathy
Government Advocate
for R1
Mr.Baskaran
Standing counsel for R2

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the 1st respondent to process the applications submitted by the petitioners, who are seeking for patta for the properties owned by them without insisting for No objection certificate from the 2nd respondent.

2. Heard the learned counsel for the petitioner and Mr.S.N.Parthasarathy, learned Government Advocate for R1 and Mr.Baskar, learned Standing counsel for 2nd respondent.

3. The issue involved in the present writ petition is squarely covered by the earlier order passed by this Court in WP No.8633 to 8636 of 2020 dated 31.07.2020. The relevant portions in the order is extracted hereunder :-

5. There is no dispute with regard to the fact that the property for which the petitioners are seeking for patta also falls in the same 4(1) notification. That fact is clear from the counter affidavit that has been filed by the second and third respondents.

6. Mr.Sahadevan, learned counsel appearing on behalf of the petitioners submitted that this Court had repeatedly held that the Tamil Nadu Housing Board has no right over the property and therefore the Tahsildar should not insist the petitioners to get No Objection Certificate from the Housing Board. Despite all these orders, the Tahsildar continues to insist for No Objection Certificate. The learned counsel further submitted that the third respondent even without having a right over the property has come to the conclusion that the property belongs to the Housing Board. According to the learned counsel, the finding of the Housing Board goes completely contrary to the earlier orders passed by this Court. Therefore the learned counsel submitted that the impugned order passed by the third respondent requires interference and the fifth respondent must be directed to issue patta to the petitioners.

7. Per contra, Mr.Bhaskar, learned counsel appearing on behalf of the second and third respondents submitted that the petitioners made a representation before the Housing Board and had also approached this Court by filing a writ petition directing the Housing Board to dispose of all the representations and therefore the third respondent has proceeded to pass the order. The learned counsel further submitted that the petitioners did not produce any valid documents to prove their title over the property and all the petitioners are

encroachers in the property and they have nothing to do with the property and they neither have a title nor the ownership over the property. The learned counsel heavily relied upon the common counter affidavit filed by the second and third respondents in all the writ petitions.

8. Mr.Elumalai, learned Government Advocate appearing on behalf of the respondents 1 and 4 and Mr.K.Parameshwaran, learned counsel appearing on behalf of the fifth respondent submitted that property in question was a subject matter of land acquisition and therefore to deal with the application for patta, the petitioner will have to necessarily get NOC from the Housing Board. It was therefore submitted that there are no merits in these writ petitions and the same is liable to be dismissed.

9. This Court has carefully considered the submissions made on either side and materials available on record.

10. It is true that initially acquisition proceedings were initiated and 4(1) notification was issued in the year 1975. The subject property in all the writ petitions forms part of 4(1) notification. This Court by an order dated 01.07.1999 made in W.P.No.18379 of 1991, quashed the 4(1) notification published on 11.06.1975 and even gave liberty to the Government to proceed afresh if the acquisition is necessary for public interest. However, no fresh acquisition proceedings were initiated. However, the Tahsildar was insisting for NOC from Housing Board in order to process patta applications from the concerned owners.

11. The previous order passed by this Court which has been extracted supra clearly establishes the fact that this Court on more than one occasion had held that the Housing Board has no right over the lands and the Tahsildar should not insist for getting No Objection Certificate from the Housing Board. This Court also proceeded to issue directions to the Tahsildar to grant patta without insisting for No Objection Certificate from the Housing Board.

12. The above order squarely covers the facts of the present case also.

13. In view of the above discussion, the impugned proceedings of the third respondent dated 25.02.2020 is hereby quashed and there shall be a

direction to the fifth respondent to process the applications submitted by the petitioners seeking for patta without insisting for an NOC from the Tamil Nadu Housing Board and necessary orders shall be passed strictly in accordance with law within a period of six weeks from the date of receipt of copy of this order.

4. In view of the above, there shall be a direction to the 1st respondent to process the applications submitted by the petitioners seeking for patta without insisting for No objection certificate from the Tamil Nadu Housing Board and necessary orders shall be passed strictly in accordance with law, within a period of six weeks from the date of receipt of copy of this order.

5. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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Chennai 600 035

+1cc to Mr.K.Karthick Jagannath , Advocate SR.No. 32912

W.P.No.13914 of 2020

vsn II co

A.SK(09/11/2020)

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