

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.15561 of 2020

T.S.Francis

...Petitioner

.Vs.

1. The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat, Chennai 600 009
2. The Managing Director
Tamil Nadu Housing Board
No. 493 Anna Salai
Nandanam, Chennai 600 035.
3. The Executive Engineer and Administrative officer
K.K. Nagar Division,
Tamil Nadu Housing Board
C-48 T.N.H.B Commercial Complex
Anna Nagar 2nd Avenue
Chennai 600 040.
4. The Special Tahsildhar
Tamil Nadu Housing Board
K.K. Nagar Division
Chennai
5. The Tahsildar
Maduravayal Taluk
Maduravayal
Thiruvallur District.

...Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus Directing the 5th Respondent to issue the Patta to the Petitioner for his property bearing Plot.No.30, Vinayagapuram, comprised in Old Survey No. 284/1A of Nerkundram Village, Maduravoyal Taluk Thiruvallur District measuring an extent of 1200 sq.ft lying within the Registration District of Chennai South and Sub Registration District of Virugambakkam.

For Petitioner : Mr.A.Ilayaperumal
For Respondents 1 & 5 : Mr.S.N.Parthasarathi
Government Advocate
For Respondents 2,3 & 4 : Mr.Baskar

ORDER

This Writ Petition has been filed for a direction to the 5th respondent to act upon the application submitted by the writ petitioner on 21.09.2020, wherein the petitioner has sought for patta in his name for the subject property.

2. Heard Mr.A.Ilayaperumal, learned counsel appearing on behalf of the petitioner and Mr.S.N.Parthasarathi, learned Government Advocate, appearing for the respondents 1 and 5 and Mr.Baskar, learned counsel appearing for the respondents 2,3 and 4.

3. The issue involved in the present Writ Petition is covered by the orders passed by this Court in W.P.No.8633 and 8636 of 2020 dated 31.07.2020. The only difference in this case is the plot number and the petitioner is the owner of Plot No.30.

4. The relevant portions in the orders 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 ."

5. In view of the above, there shall be a direction to the 5th respondent to consider the representation made by the petitioner on 21.09.2020 and process the same in accordance with law in line with the above order and pass necessary orders within a period of six weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the 5th respondent along with all relevant documents and also a copy of this order.

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

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government
Housing and Urban Development Department
Government of Tamil Nadu
Secretariat, Chennai 600 009

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5. The Tahsildar
Maduravayal Taluk
Maduaravayal
Thiruvallur District.

+lcc to Mr.A.Ilayaperumal, Advocate, S.R.No.35509
+lcc to the Government Pleader, S.R.No.35615

W.P.No.15561 of 2020

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