



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.13285 of 2016

Nagapattinam Co-operative House
Building Society Ltd., Z-109
Represented by its Secretary
having its office at No.6, Neela Sannathi
Nagapattinam - 611 001.

...Petitioner

-Vs-

1. The Chairman
Tamil Nadu Slum Clearance Road
Chennai - 600 005.
2. The Managing Director
Tamil Nadu Slum Clearance Board
Chennai - 600 005.

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to pay the entire sale price to the petitioner's Society for the land comprised in Town Survey No.1229 and 1230 at Nagapattinam Town Ward No.4, Block No.28, Nagapattinam Town and District to an extent of 43254 Sq.ft as per the prevailing Government Guideline value and get the sale deed executed in favour of the Board.

For Petitioner : Mr.S.Sathish Rajan

For Respondents : Mr.B.S.Sundaramurthy
Standing Counsel

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to pay the entire sale price to the petitioner's Society for the land comprised in Town Survey No.1229 and 1230 at Nagapattinam Town Ward No.4, Block No.28, Nagapattinam Town and District to an extent of 43254 Sq.ft as



per the prevailing Government Guideline value and get the sale deed executed in favour of the Board.

2. It is the case of the petitioner that, the petitioner is a Cooperative Housing Society. The land at Survey No.1229 and 1230 at Nagapattinam Town Ward No.4, Block No.28, Nagapattinam Town and District to an extent of 43254 Sq.ft belongs to the petitioner Society. During the year 1994, the respondent Tamil Nadu Slum Clearance Board (hereinafter referred to as TNSCB) obtained permission from the Society to construct multi storey building consisting of 117 houses. Even though TNSCB collected monthly instalments from the allottees, they have not paid the sale consideration to the petitioner Society for the land cost.

3. In this regard, repeated requests have been made by the petitioner Society to the respondent TNSCB and despite these efforts for more than two decades, nothing was forthcoming from the respondents.

4. In this context, several representations have been given by the petitioner Society during the years 2001, 2003, 2004, 2011, 2013, 2014 and 2015 etc.,. None of these efforts taken by the petitioners have given any desired result and the matter stood in the same position unmoved, as so far no sale consideration as against the purchase of the land has been paid by the respondent Board. Therefore, the petitioner, having no other option, has filed the present writ petition with the aforesaid prayer.

5. Heard Mr.S.Sathish Rajan, learned counsel for the petitioner, who, after having reiterated the aforesaid facts would seek the indulgence of this Court to give suitable direction to the respondents to pay the sale consideration to the land concerned with interest from the date the enter upon permission was given in the year 1994 till the date of payment of compensation.

6. Mr.Sundaramurthy, learned Standing Counsel for the respondents seeks two weeks time to get along with the case. This Court is not impressed with the said request. The reason being that, this case was filed in the year 2016. Thereafter, it had come up before various Hon'ble Judges of this Court at least 14 times. Before my Court, it had come on 07.04.2021, 23.04.2021, 24.06.2021 and 09.07.2021. Each and every time, request has been made on behalf of the respondents to accommodate for getting along with the case. Ultimately, the case is posted today for hearing.



7. In view of the aforesaid continuous request made by the respondents and the case has been pending for a simple mandamus from 2016 onwards, where it had already come before various Honourable Judges of this Court, this Court is not inclined to accept the plea raised by the respondents for further adjournment.

8. Therefore, this Court decides to proceed in this matter after having considered the submissions made by the learned counsel for the petitioner, and after having gone through the documents filed in the typed set of documents. This Court has considered the submissions of the petitioner Society that the land in question having been purchased or taken away by the respondent TNSCB for construction of 117 tenements, they have not paid the land cost even till date.

9. In this context, it is to be noted that, the respondent TNSCB has taken away this land or purchased this land by obtaining enter-upon permission on 01.09.1994 and from that date the respondent TNSCB has taken this land in their possession, where they have already constructed 117 tenements and from each of the allottees entire amount would have been recovered, thereby the respondent TNSCB had been in unjust enrichment of the land belonging to the petitioner without paying a single paise to the petitioner Society.

10. This kind of atrocious act cannot be permitted to go on forever as the petitioner Society is also doing public duty. Therefore, if its valuable land to a larger extent was taken away and utilised by the respondents without paying a single paise for the past nearly about 27 years, it is nothing but unjust enrichment. Therefore, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondents to consider the representations of the petitioner Society given on various dates such as 01.12.2000, 25.01.2001, 21.09.2001, 24.07.2013, 29.01.2014, 09.07.2014 and 02.02.2015 and immediately disburse the amount of sale consideration fixed in this regard either as per the fixation made by the District Revenue Officer concerned at the rate of Rs.21.40/- per Sq.ft or as per the guideline value as prevailed as on 01.04.1997 ie., Rs.58.60/- per Sq.ft and pay the said compensation with interest at 15% per annum from 01.01.1994, the date on which the enter-upon permission was given and the land was taken possession by the respondent till the date of payment.



● Such payment shall be made by the respondents to the petitioner Society within a period of eight weeks from the date of receipt of a copy of this order.

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11. With the above directions, this writ petition is disposed of. No costs. Post this writ petition for "Reporting Compliance" on 08.11.2021.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Chairman
Tamil Nadu Slum Clearance Road
Chennai - 600 005.
2. The Managing Director
Tamil Nadu Slum Clearance Board
Chennai - 600 005.

+1CC to Mr.B.S.Sundaramoorthi, Advocate, Sr.No.36789
+1CC to Mr.Government Pleader, Sr.No.37389

W.P.No.13285 of 2016

BP (CO)
K.RK. (06.10.2021)