



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.22197 of 2012

and

M.P.No.1 of 2012

K.B.Sankar

...Petitioner

Vs

1. The Managing Director,
Tamilnadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai.

2. The Secretary to Government
of Tamilnadu,
Housing and Urban
Development Department,
Secretariat, Fort. St. George,
Chennai-600 009.

...Respondents

(R2 is impleaded as per order dated 22.08.2012 by VDPJ in M.P. No.2 of 2012 in W.P. No.22197 of 2012)

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the letter sent by the Respondent herein in Letter No.LA1(1)/51661/2011 dated 10.05.2012 and quash the same and direct the Respondent to issue No objection Certificate in respect of the petitioner's property measuring to an extent of 22254 Sq. ft (about 51 cents) comprised in S.No.86/14, Patta No.224, No.10 Pillaiyar Koil Street Extension, Rajaji Nagar, Tiruvanmiyur Village, Mylapore-Triplicane Taluk, Chennai.

For Petitioner : Mr.Felix Parthiban
for M/s.S/Joel

For Respondent1: Mr.M. Baskar
Standing Counsel

For Respondent 2: Mr.M.R.Gokul Krishnan
Government Advocate



WEB GATES

O R D E R

This writ petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the letter sent by the Respondent herein in Letter No.LA1(1)/51661/2011 dated 10.05.2012 and quash the same and direct the Respondent to issue No objection Certificate in respect of the petitioner's property measuring to an extent of 22254 Sq. ft (about 51 cents) comprised in S.No.86/14, Patta No.224, No.10 Pillaiyar Koil Street Extension, Rajaji Nagar, Tiruvanmiyur Village, Mylapore-Triplicane Taluk, Chennai.

2. The case of the petitioner is that the property comprised in Survey No.86/14 admeasuring 22254 sq.ft. (about 51 cents) situated at No.10, Pillaiyar Koil Street Extension, Rajaji Nagar, Tiruvanmiyur Village, Mylapore-Triplicane Taluk, Chennai belongs to his grandfather. After his demise, his father along with other legal heir inherited the said property and by the family arrangements, it was given to his father by an unregistered release deed by other legal heirs.

3. Thereafter, the said property was settled in favour of the petitioner and his brother by registered settlement deed dated 14.10.2010 vide Document No.7698 of 2010. In turn, his brother relinquished his share and executed in favour of the petitioner vide release deed dated 22.03.2012 registered in Document No.4548 of 2012.

4. The first respondent acquired the said property under the Land Acquisition Act on 09.08.1978. Further the case of the petitioner is that by G.O.Ms.No.190 dated 23.02.1990, released the lands from the acquisition proceedings including the subject property. Accordingly, a notification was issued in G.O.Ms.No.667 dated 06.08.1981 wherein the subject property was also shown in the cancelled list of land from the acquisition proceedings. Therefore, the petitioner applied for No Objection Certificate from the first respondent as directed by the Electricity Board to restore the Electricity Service Connection.

5. The counter affidavit filed by the first respondent revealed that originally the subject property was owned by Murugesu Naicker to an extent of 51 cents. As requested by the first respondent the acquisition proceedings was initiated under the notification issued under Section 4(1) of the Land Acquisition Act. Thereafter, the Draft Declaration was issued under Section 6 of the Land Acquisition Act and the same was also approved by the Government in G.O.Ms.No.667 dated 06.08.1981 for an extent of 22.41 acres and published in the Government Gazette on 08.08.1981. After observing all the formalities laid down in the Land Acquisition Act, an Award was passed on 23.09.1986 in Award No.5 of 1986 including the subject



property comprised in Survey No.86/14.

6. The subject land was owned by Murugesha Naicker and after his demise, his legal heirs were recorded as Saroja (wife), Durai (son), Rajendran (son), Arumugam (son), Vijaya (daughter). As claimed by the petitioner, no son was born to Murugesha Naicker in the name of T.M.Bhupathi as his father. Therefore, the said T.M.Bhupathi has no right over the property. In fact, even according to the petitioner, the said T.M.Bhupathi derived title by unregistered release deed by other legal heirs of Murugesha Naicker. Therefore, the petitioner has no title or right over the subject property.

7. That apart, the award was passed even as early as on 23.09.1986 and the possession was also taken over on 30.10.1996 itself. Therefore, the first respondent rightly rejected the application filed by the writ petitioner for no objection and this Court finds no infirmity or illegality in the orders passed by the first respondent. This writ petition is liable to be dismissed as devoid of merits.

8. Accordingly, this writ petition is dismissed. No order as to costs. However, the petitioner is at liberty to approach the Civil Court for declaring his father T.M.Bhupathi as one of the legal heirs of Murugesha Naicker. Consequently, the connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

rna/mka

To

1. The Managing Director,
Tamilnadu Housing Board,
No.493, Anna Salai,Nandanam, Chennai.
2. The Secretary to Government of Tamilnadu,
Housing and Urban Development Department,
Secretariat, Fort. St. George,Chennai-600 009.

+1cc to Mr.M.Baskar, Advocate, S.R.No.43515/21

+1cc to the Government Pleader, S.R.No.43641/21

W.P.No.22197 of 2012 and
M.P.No.1 of 2012

SSV(CO)

RGA(/09/2021)