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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP No.18628 of 2021

Mrs. Rajammal

...Petitioner

-Vs-

1. The Commissioner
Greater Chennai Corporation,
Ripon Building, Chennai.
2. The Zonal Officer,
Valasaravakkam,
Greater Chennai Corporation.
3. The Tamil Nadu Housing Board
Rep. by its Managing Director
Nandanam Chennai- 600 035.

...Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st and 2nd respondent to consider the representation dated 09.01.2021 process and accord planning permission for the proposed constructions at the above plot/ house i.e. plot measuring 1830 Sq.Ft. situated in survey No.14 Porur Village Chennai- 600 116, expeditiously in accordance with law without insisting for production of No Objection Certificate from the 3rd Respondent.

For Petitioners : Mr. S.Selvakumar

For Respondents : Mr.P.T.Ramadevi
Standing counsel for R1 and R2
Mr. R.Shiva Kumar
Standing counsel for R3

O R D E R

This writ petition has been filed for the issue of writ of Mandamus directing the respondents 1 and 2 to consider the representation made by the petitioner on 09.01.2021, wherein the petitioner is seeking for planning permission for the proposed



construction and the petitioner has requested the respondents 1 and 2 not to insist for no objection certificate from the 3rd respondent.

2. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

3. The issue involved in the present case is squarely covered by the earlier order passed by this Court in WP No.25771 of 2011 dated 03.02.2012. The relevant portions in the order are extracted hereunder :

2. The only grievance of the petitioner is that the first and second respondents cannot insist the petitioner to produce the No Objection Certificate from the third respondent as a condition precedent for granting planning permission. In this context, the learned counsel for the petitioner relied on the order dated 03.11.2008 passed by this Court in WP No. 25786 of 2008 wherein this Court issued directions to the respondents 1 and 2 herein to process the planning permission application of the petitioner without insisting No Objection Certificate from the Housing Board. The learned counsel for the petitioner also brought to the notice of this Court the order dated 24.06.2011 passed by this Court in WP No. 12906 of 2011 in respect of the adjacent property of the petitioner namely Plot No.13, 7th Main Road, Lakshmi Nagar Extension, Porur, Chennai. In and by the said order dated 24.06.2011, direction was issued by this Court to the respondents 1 and 2 to process the application of the petitioner without insisting No Objection Certificate from the Housing Board. The learned counsel for the petitioner also brought to the notice of this Court the judgment of the Division Bench of this Court made in W.A.No. 1462 of 2010 dated 19.10.2011 in an identical matter, wherein, the Division Bench, in para Nos. 9, 10 and 11 of the judgment, held as follows:-

"9. In our opinion, in this writ appeal, we are not called upon to decide as to the validity of the land acquisition proceedings. The writ petition relates to the grievance of the petitioners that their application for planning permission was not considered on the ground that they have to produce 'No Objection Certificate' from Tamil Nadu Housing Board. This Court, on an earlier occasion in WP No. 36111 of 2005, keeping in view the limited relief sought for by



similar petitioners, ordered that No Objection Certificate was not necessary for the purpose of consideration of the planning permit. The said order has been confirmed by the Apex Court.

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10. In that view of the matter, direction given in the writ petition to the authorities to consider and pass orders on the application for approval of planning permission without 'No Objection Certificate' requires no interference. Accordingly, the writ appeal is dismissed. No costs. Consequently, M.P. No.1/2010 is also dismissed.

11. However, we make it clear that we are not deciding the question whether the acquisition proceedings were challenged and the notification relating to the subject case was set aside or not, except observing that the planning permission if granted by the Villivakkam Town Panchayat shall be made without prejudice to the rights of the Tamil Nadu Housing Board over the property on the basis of the acquisition proceeding."

3. It is evident from the judgment passed by the Division Bench of this Court, mentioned supra, that the Housing Board is at liberty to initiate acquisition proceedings and the directions given to the planning authorities for issuing planning permission is without prejudice to the rights of the Tamil Nadu Housing Board. Therefore, in the light of the decisions of this Court, mentioned supra, it is suffice to direct the respondents 1 and 2 to consider the application of the petitioner without insisting No Objection Certificate from the third respondent. Accordingly, the respondents 1 and 2 are directed to consider the application of the petitioner without insisting No Objection Certificate from the third respondent and pass orders on merits and in accordance with law, if the application submitted by the petitioner is otherwise in order.

4. The above order pertained to the very same subject property and the only difference is the Plot Number. Therefore, the above order will enure to the benefit of the petitioner also. In view of the above, respondents 1 and 2 are directed to proceed further to process the application submitted by the petitioner without insisting for the No Objection Certificate from the 3rd respondent.



5. This writ petition is disposed of with the above directions. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
Greater Chennai Corporation,
Ripon Building, Chennai.
2. The Zonal Officer,
Valasaravakkam,
Greater Chennai Corporation.
3. The Managing Director,
The Tamil Nadu Housing Board
Nandanam Chennai- 600 035.

+1CC to Mr.S.Selvakumar, Advocate, Sr.No.52072
+1CC to M/s.P.T.Ramadevi, Advocate, Sr.No.51186

WP No.18628 of 2021

VSN-II (CO)
K.RK. (26.10.2021)