



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.20634 of 2021  
and  
W.M.P.No.21898 of 2021

1. A.Ehaya Banu
2. G.Barathkumar
3. A.Kumar
4. S.Balan
5. K.Jesuraj
6. K.Thirumalai
7. K.Sisubalan
8. R.Geetha
9. K.Mohanavalli

...Petitioners

Vs.

1. The Tahsildar,  
Maduravoyal Taluk,  
Phase-II, 2<sup>nd</sup> Main Road,  
Nolambur, Chennai - 600 095.
2. Tamil Nadu Housing Board,  
Rep. by its Managing Director,  
493, Anna Salai,  
Nandanam, Chennai - 600 035.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1<sup>st</sup> respondent to process the petitioners' applications for Patta dated 08.09.2021, 09.09.2021 and 14.09.2021 and grant Patta for the petitioners' plots situated in the layouts viz., Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai - 600087 and Vinayagapuram, Nerkundram, Chennai - 600107, comprised in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, Maduravoyal Taluk, Chennai District without insisting no-objection from the 2<sup>nd</sup> respondent.



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For Petitioners : Mr.K.Karthik Jagannath

For R1 : Mr.V.Veluchamy  
Government Advocate

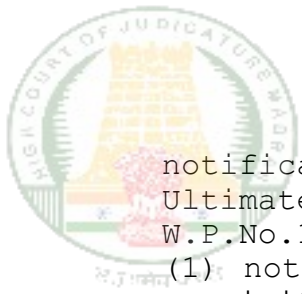
For R2 : Mr.M.Baskar  
Standing Counsel

#### ORDER

This Writ Petition has been filed to direct the 1<sup>st</sup> respondent to process the petitioners' applications for Patta dated 08.09.2021, 09.09.2021 and 14.09.2021 and grant Patta for the petitioners' plots situated in the layouts viz., Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai - 600087 and Vinayagapuram, Nerkundram, Chennai - 600107, comprised in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, Maduravoyal Taluk, Chennai District without insisting no-objection from the 2<sup>nd</sup> respondent.

2. According to the petitioners, the petitioners are the owners of their respective plots situated in the layouts namely Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai-600087 and Vinayagapuram, Nerkundram, Chennai- 600107 which is comprised in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, Maduravoyal Taluk, Chennai District. Originally, a larger extent of lands in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375, Nerkundram Village, measuring an extent of 10.73 acres were owned and possessed by one Venkatasamy Naicker. The said Venkatasamy Naicker and his wife Ponnammal had one son viz., V.Janakiraman. The said Venkatasamy Naicker died on 05.11.1982 and after his demise the said Ponnammal, wife of Venkatasamy Naicker, was in peaceful possession and enjoyment of the aforesaid 10.73 acres lands along with her children. At that time, the Tamil Nadu Housing Board, 2<sup>nd</sup> respondent herein, with an intention to acquire the above said lands among others, had issued notification under Section 4(1) of the Land Acquisition Act, 1984 vide G.O.Ms.No.124 dated 08.05.1975 published on 11.06.1975 and subsequently Sec.6 declaration was also issued which was published on 09.06.1978.

3. The said Ponnammal, wife of Venkatasamy Naicker, challenged the above said acquisition proceedings before this Court vide W.P.No.8371 of 1986 and by an order dated 21.01.1988 passed in the said Writ Petition, this Court was pleased to quash the Sec.6 declaration issued under the Act. Thereafter, since the 2<sup>nd</sup> respondent did not conduct fresh enquiry under Sec.5A of the Act even after a lapse of several years, the said Ponnammal, one again moved a Writ Petition before this Court in W.P.No.18379 of 1991 seeking to quash the aforesaid Section 4(1)



notification published on 11.06.1975 in respect of her lands. Ultimately, by an order dated 01.07.1999 passed in the said W.P.No.18379 of 1991, this Court was pleased to quash the Sec.4 (1) notification published on 11.06.1975 and thereby the entire acquisition proceedings initiated by the 2<sup>nd</sup> respondent in respect of the lands measuring 10.73 acres, comprised in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, was quashed by this Court.

4. After passing the above order dated 01.07.1999 by this Court, no fresh acquisition proceedings were initiated by the 2<sup>nd</sup> respondent and subsequently, the said Ponnammal also died. After her demise, her son V.Janakiraman and grandchildren Ruthirakumar, Gunasekaran and Barani who became the owners of the aforesaid lands developed the same as house sites by forming the layouts viz. Vinayagapuram, Nerkundram, Chennai - 600107 and Sri Lakshmi Nagar, Alwarthiru Nagar, Chennai - 600087. The petitioners herein, who have purchased their respective plots in the said layouts under valid sale deeds for a valuable sale consideration, are in peaceful possession and enjoyment of their respective plots by putting up house construction thereon and their properties have been duly assessed with property tax and they are also paying other statutory levies such as water tax, electricity charges, etc.

5. The petitioners being the owners of their respective plots in the said Sri Lakshmi Nagar and Vinayagapuram layouts, have made individual applications along with the relevant documents by paying the prescribed fee for obtaining Patta to their lands on 08.09.2021, 09.09.2021 and 14.09.2021 to the 1<sup>st</sup> respondent who is the competent authority. The Patta applications are to be received by the 1<sup>st</sup> respondent through the 'E-Sevai' counter available at his office and while so, the 1<sup>st</sup> respondent deliberately refused to receive the petitioners' patta applications through the said 'E-Sevai' counter stating that he is not in a position to scrutinize their applications for Patta, as according to the 1<sup>st</sup> respondent, the lands in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village are under acquisition by the 2<sup>nd</sup> respondent / Tamil Nadu Housing Board and as such he is unable to issue Patta to the petitioners' plots unless the 2<sup>nd</sup> respondent gives no objection. The said acquisition proceedings in respect of the petitioners' lands were duly quashed by this Court as early on 01.07.1999, but still the respondents have not considered their applications and dispose of the same. Hence, they have approached this Court by filing this Writ Petition.

6. I have heard the learned counsel for the petitioners, learned Government Advocate appearing for R1 and the Learned Standing Counsel appearing for R2, and perused the materials



available on record.

7. On perusal of the records, it is seen that the petitioners are the owners of their respective plots situated in the layouts viz. 'Sri Lakshmi Nagar', Alwarthiru Nagar, Chennai - 600087 and 'Vinayagapuram', Nerkundram, Chennai - 600107, comprised in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, Maduravoyal Taluk, Chennai District. The petitioners have made individual applications to the 1<sup>st</sup> respondent for obtaining Patta to their plots on 08.09.2021, 09.09.2021 and 14.09.2021, but the 1<sup>st</sup> respondent insisted them to get no-objection certificate from the 2<sup>nd</sup> respondent. Hence, they have filed this Writ Petition before this Court.

8. It is seen from the averments made in the petition that originally, the above said lands in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375 of Nerkundram Village, were owned by one Mr.Venkatasamy Naicker and his wife Mrs.Ponnammal and they were in peaceful possession and enjoyment of the said property. Subsequently, the 2<sup>nd</sup> respondent herein had issued a notification under Section 4(1) of the Land Acquisition Act 1984 vide G.O.Ms.No.124 dated 08.05.1975 for acquisition of the said lands and thereafter Sec.6 declaration was also published on 09.06.1978.

9. It is contended by the the learned counsel for the petitioners that the the said acquisition proceedings were already quashed by this Court as early on 21.01.1988 in W.P.No.8371 of 1986 filed by the erstwhile owner of the property, but in spite of the same, the 1<sup>st</sup> respondent demanding no-objection certificate from the 2<sup>nd</sup> respondent without application of mind.

10. In this regard, on perusal of the typed set of papers, it is seen that the notification issued under Section 4(1) of the Act was already challenged before this Court by one Mrs.Ponnammal in W.P.No.8371 of 1986 and this Court has quashed that notification subject to the condition that the petitioner shall prove her ownership of her respective properties at the time of enquiry under Section 5A of the Act. Since the enquiry under Section 5A was not conducted by the 2<sup>nd</sup> respondent, the said Ponnammal has filed another Writ Petition before this Court in W.P.No.18379 of 1991. This Court, after considering the pleadings and hearing the parties, has held in the Writ Petition as follows :

"6. Learned Counsel appearing for the petitioner has brought to my notice earlier order of mine reported in S.VIJAYALAKSHMI VS. STATE OF TAMIL NADU (1999 I Land Acquisition and Compensation cases 273) wherein I had an



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occasion to consider the very same 4(1) notification as well as the Division Bench, order of this Court. After considering the similar orders passed and the 4(1) notification issued in the year 1975 or 1978, I have concluded,

"In Special Deputy Collector (L.A.) V.Kappu Gounder (1985 Writ L.R.694) a Division Bench of this Court affirmed the view expressed by Mohan.J. in 1984 (II0 MLJ 427 (cited supra). In the case before Mohan.J. there was delay of more than 10 years while before the Division Bench, the delay was more than 14 from the date of notification under Section 4(1). I have already stated that in overall 4(1) notification was published in the Government Gazette in the year 1975 in some cases and 1978 other cases. If the Principles laid down in the above referred two decisions are applied, the delay in our cases would be more than 20 years, accordingly even on the principle of equity it is not open to the respondent to proceed further on the basis of the notifications issued under Section 4 (1) in the year 1975 or 1978."

In as much as the very same 4(1) notification has already been quashed by this Court for the reasons mentioned therein, I am of the view that the same is applicable to the present writ petition.

7. Under these circumstances, I hold that the respondents are not legally entitled to proceed further on the basis of the 4(1) notification published on 11.06.1975, accordingly the writ petition is allowed. No costs. It is made clear that if the respondents are satisfied that if the acquisition is necessary for public interest, it is open to them to proceed afresh by exercising the power of eminent domain."

11. In view of the above order passed by this Court in W.P.No.18379 of 1991, it is absolutely made clear that the 4(1) notification issued on 11.06.1975 in respect of the petitioners' property was already quashed by this Court as early on 01.07.1999. Further, it is seen from the typed set of papers that a similar kind of writ petitions came to be filed before this Court on many occasions, on all the occasions, the said writ petitions were allowed by this Court with a direction to the 1<sup>st</sup> respondent to consider the patta applications without insisting no-objection certificate from the 2<sup>nd</sup> respondent. The said orders would squarely apply to the facts of the present case also. Hence, this Court is of the view that the 1<sup>st</sup> respondent should consider the petitioners' applications and



grant patta to their lands without insisting no-objection certificate from the 2<sup>nd</sup> respondent.

12. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

raja

To

1. The Tahsildar,  
Maduravoyal Taluk,  
Phase-II, 2<sup>nd</sup> Main Road,  
Nolambur, Chennai - 600 095.
2. The Managing Director,  
Tamil Nadu Housing Board,  
493, Anna Salai,  
Nandanam, Chennai - 600 035.

+1cc to M/s.Karthik Jagannath, Advocate, S.R.No.62284

W.P.No.20634 of 2021  
and  
W.M.P.No.21898 of 2021

NRL(CO)  
RGA(08/12/2021)