

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P.Nos. 19392 to 19395 of 2020

E.Valarmathi,
W/o. Elangovan

... Petitioner in
W.P No.19392/2020

K.Jagannathan,
S/o. Krishnan

... Petitioner in
W.P No.19393/2020

Mr.P.Thirupathi
S/o. Pandi

... Petitioner in
W.P.No.19394/2020

M.Kozhithimuthu,
S/o. Muthaiya

... Petitioner in
W.P.No.19395/2020

Versus

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-35.
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 Tahsildar,
Tamil Nadu Housing Board,

K.K.Nagar Division,
Chennai.

5. The Tahsildar,
Maduravayal Taluk,
Maduravayal,
Thiruvallur Dt.

... Respondents in
all W.P.s

PRAYER in W.P.No.19392 of 2020 : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 5th respondent to issue the patta to the petitioner for his property bearing Plot No.103, Sri Balavinayagar Nagar, comprised in Survey No.322/1 of Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 600 sq.ft. and lying within the Registration District of Chennai South and Sub-Registration District of Virugambakkam.

PRAYER in W.P.No.19393 of 2020 : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 5th respondent to issue the patta to the petitioner for his property bearing Plot No.5, Sri Rajiv Gandhi Nagar, comprised in Survey No.255/2 of Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 1440 sq.ft. and lying within the Registration District of Chennai South and Sub-Registration District of Virugambakkam.

PRAYER in W.P.No.19394 of 2020 : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 5th respondent to issue the patta to the petitioner for his property bearing Plot No.2, Sri Rajiv Gandhi Nagar Annex, comprised in Survey No.255/2 of Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 720 sq.ft. and house thereon and lying within the Registration District of Chennai South and Sub-Registration District of Virugambakkam.

PRAYER in W.P.No.19395 of 2020 : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 5th respondent to issue the patta to the petitioner for his property bearing Plot No.219, Sri Balavinayaga Nagar, comprised in Survey No.324/1 and 324/2 of Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 612.5 sq.ft. and lying within the Registration District of Chennai South and Sub-Registration District of Virugambakkam.

For Petitioner : Mr.A.Ilayaperumal
in all W.P.s

For Respondents : Mr.S.N.Parthasarathi,
in W.P.No.19392 and Govt. Advocate for R1 & R5
19394 of 2020

For Respondents in : Mr.M.Baskar, Standing Counsel
in W.P.Nos. 19392 to for R2 to R4
19395 of 2020

For Respondents in : Mr.E.Balamurugan,
W.P.No.19393 and Special Govt. Pleader for
19395 of 2020 R1 and R5

C O M M O N O R D E R

(The case has been heard through video conference)

W.P.No.19392 of 2020, has been filed seeking a direction, directing the 5th respondent to issue patta to the petitioner in respect of his property bearing Plot No.103, Sri Balavinayagar Nagar, comprised in Survey No.322/1, at Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 600 sq.ft.

2. W.P.No.19393 of 2020 has been filed seeking a direction, directing the 5th respondent to issue patta to the petitioner in respect of his property bearing Plot No.5, Sri Rajiv Gandhi Nagar, comprised in Survey No.255/2 at Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 1440 sq.ft.

3. W.P.No.19394 of 2020 has been filed seeking a direction, directing the 5th respondent to issue patta to the petitioner in respect of his property bearing Plot No.2, Sri Rajiv Gandhi Nagar Annex, comprised in Survey No.255/2, at Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 720 sq.ft.

4. W.P.No.19395 of 2020 has been filed seeking a direction, directing the 5th respondent to issue patta to the petitioner in respect of his property bearing Plot No.219, Sri Balavinayagar Nagar, comprised in Survey No.324/1 and 324/2 at Nerkundram Village, previously known as Ambattur Taluk, now known as Maduravoyal Taluk, Thiruvallur District measuring an extent of 612.5 sq.ft.

5. The grievance of the petitioners is that they have purchased the property and they are residing therein. After purchase, they have approached the 5th respondent to issue patta. But, the 5th respondent has refused to issue patta on the ground that, the land has been acquired for the Tamil Nadu Housing Board, Nerkundram Neighbourhood scheme, hence, the petitioners are not entitled to get patta. Therefore, the present Writ Petition has been filed.

6. Mr.A.Ilayaperumal, learned counsel appearing for petitioner would submit that, earlier, the lands were acquired by the Tamil Nadu Housing Board and the land acquisition proceedings was challenged by the previous vendors and this Court has set aside the notification and allowed the Writ Petitions and as such, no land acquisition proceedings is pending. In the said circumstances, the respondents cannot deny for the issuance of patta on the ground that the lands are under the acquisition proceedings.

7. The 3rd respondent Tamil Nadu Housing Board has filed a detailed counter affidavit, wherein they have stated that, earlier, an extent of 460.8 acres of land in Nerkundram village has been acquired for its Neighbourhood Schemes under various notifications. So far as the lands of petitioners in respect of survey Nos. 255/2, 322/1, 324/1 and 324/2 are concerned, the Government has issued Sec.4(1) notification vide G.O.Ms. No.124, dated 08.05.1975, and subsequently, Sec.6 declaration was issued in G.O.Ms.No.995, dated 07.06.1978 and the award also came to be passed vide No.1/86, dated 10.01.1986 and 2/86 dated 28.02.1986, subsequently, the possession was taken and handed over to Tamil Nadu Housing Board on 21.03.1986. So far as survey Nos. 322/1, 255/2 and 324/1 and 2 are concerned, the award was passed in the name of vendors of the petitioner and original owner has also received entire compensation. It is further stated that in respect of Survey No.322/1, the previous owner Ranganayaki Ammal, challenging the acquisition proceedings filed a Writ Petition before this Court in W.P.No.10133 of 1988 and the Division Bench of this Court by an order dated 05.02.1996 dismissed the Writ Petition, thereby upheld the acquisition proceedings. In respect of other Survey Nos.324/1 and 2, the original landowners did not challenge the acquisition proceedings and hence, the acquisition proceedings has become final. The Tamil Nadu Housing Board has also taken possession in so far as Survey No.255/2.

8. Mr.A.Ilayaperumal, learned counsel appearing for petitioner would submit that even though the petitioners are subsequent purchasers of the property, the vendors of the petitioners, the original owners, have challenged the acquisition proceedings and the acquisition proceedings has been

set aside in W.P.No. 8370 and 8371 of 1986. In the said circumstances, it is not open to the Housing Board to contend that the acquisition proceedings has been upheld by this Court. He would submit that as the acquisition proceedings are set aside by this Court, the petitioners are entitled for patta.

9. Mr. M.Baskar, learned Standing Counsel appearing for T.N.H.B. Would contend that all those Writ Petitions referred to the petitioners therein in respect of Survey Nos. 284/1A, 373/2A, 373/2B, 374/2 and 375 at Nerkundram village, and not relates to the petitioners property. The learned counsel also produced the copy of the order passed by the Division Bench of this Court in W.P.No.10133 of 1988, which covers the Survey Nos. 322/1 and 324/1 and 2, so far as the remaining Survey Nos.255/2, there is no Writ Petition has been filed. Now, the Tamil Nadu Housing Board has also taken possession and the petitioner cannot claim patta.

10. I have considered rival submissions and perused the records carefully.

11. On perusal of records, it could be seen that so far as Survey Nos.322/1 and 324/1 and 2, original owner Ranganayaki Ammal filed a Writ Petition challenging the acquisition proceedings and that Writ Petition has been dismissed by a Division Bench of this court, thereby the acquisition proceedings has been upheld. So far as Survey No.255/2, the counter affidavit filed by the 2nd respondent, clearly says that the award has been passed in faovur of original owner and he has received the compensation. The learned counsel for petitioner is not in a position to produce any order showing that the acquisition proceedings are set aside in respect of those survey numbers. Now, it is also stated that the Tamil Nadu Housing Board has taken possession of the land. In that circumstances, the petitioners are not entitled to get patta. Therefore, I find no merit in these Writ Petitions and the same are liable to be dismissed. Accordingly, these Writ Petitions are dismissed. No costs.

WEB COPY Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

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-35.

3. The Executive Engineer
and Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
C-48, T.N.H.B. Commercial Complex,
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4. The Special Tahsildar,
Tamil Nadu Housing Board,
K.K.Nagar Division,
Chennai.

5. The Tahsildar,
Maduravayal Taluk,
Maduravayal,
Thiruvallur Dt.

+4ccs to Mr.A.Ilayaperumal , Advocate SR.No. 24761,24764,24763,
24764

+1 cc to Government Pleader Sr.No. 25022,25010

W.P.Nos. 19392 to 19395 of 2020

RSV (CO)

A.SK(08.07.2021)

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22.04.2021



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