



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.25128 OF 2021

AND

W.M.P.NO.26491 OF 2021

V.Shanthi

...Petitioner

Vs

1.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Department,
Fort St. George, Chennai - 600 009.

2.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 002.

3.The Executive Engineer,
Vellore, Housing Board Section,
Tamil Nadu Housing Board,
Sathuvachari, Vellore.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 18.10.2021 consequently issue NOC for the petitioner's properties situated at Sy.No.170 at Thirupattur Village and Sy.No.59 at Su.Pallipattu Village total extent of 6.26 acres by the respondents 2 & 3 herein.

For Petitioner	:	Mr.N.Baskaran for K.Desingh
For R1	:	Mr.A.Selvendran Special Government Pleader.
For R2 & R3	:	Mr.S.Vanchinathan

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 18.10.2021, consequently issue NOC for the petitioner's properties situated at Sy.No.170 at Thirupattur Village and Sy.No.59 at Su.Pallipattu Village, total extent of 6.26 acres by the respondents 2 & 3 herein.



2. Heard, Mr.N.Baskaran, learned counsel appearing for the petitioner, Mr.A.Selvendran, learned Special Government Pleader appearing for the first respondent and Mr.S.Vanchinathan, learned counsel appearing for the second and third respondents.

3. The petitioner owned property comprised in Sy.No.170 situated at Thirupathur Village and the property comprised in Sy.No.59 situated at Su.Pallipattu Village, to an extent of 6.26 acres, by the registered sale deed dated 02.03.2020 vide Document Nos.3712 of 2020, 3713 of 2020 and 3740 of 2020. The petitioner approached the authority concerned for issuance of patta and the petitioner was issued patta in Patta Nos.2329, 2330, 2331, 2332 & 2335. The petitioner also paid property tax and mutated all the revenue records in his name. In fact, even before the purchase, his vendor converted the said property into house plots and sold out to some third parties. After purchase, the petitioner approached the authority concerned for approval and he paid the penalty and all other charges. On receipt of the same, the authority concerned approved the plots.

4. At that juncture, the third respondent issued notice to the petitioner stating that the subject property was already acquired under the Land Acquisition Act and now the Writ Appeal SR.No.58429 of 2015 is pending before this Court. Therefore, the petitioner was not able to enter into the sale agreement with several persons and (from whom) received earnest money from them. Thereafter, the petitioner came to know that already the land acquisition was challenged before this Court by his vendor in W.P.No.25201 of 2014 and by an order dated 09.04.2015, this Court quashed the entire acquisition proceedings in respect of the subject property. Thereafter, the respondents did not prefer any writ appeal and however, the writ appeal filed with condone delay petition and it is pending before this Court in SR stage. Even today, no interim order has been passed and not even the writ appeal is numbered for hearing.

5. After converting the subject property into house plots, the petitioner has sold out some plots to various persons. However, the registering authority refused to register the same and insisting to pay the surcharge amount to issue No Objection Certificate with regard to the subject property. Therefore, the petitioner submitted a representation for issuance of No Objection Certificate. However the same, the respondent refused to issue any No Objection Certificate and they preferred writ appeal SR No.58429 of 2015 and it is pending before this Court in SR stage.

6. The learned counsel for the second and third respondents submitted that they are aggrieved by the order passed by this Court in W.P.No.25201 of 2014 dated 09.04.2015 and therefore they preferred writ appeal and it is pending in SR stage.



7. Considering the above, the petitioner is directed to present the sale deed for their respective plots before the registering authority and on receipt of the same, the authority concerned is directed to register the same if it is otherwise in order without insisting No Objection Certificate for the subject property from the second and third respondents herein. The petitioner and the purchasers are at liberty to make their representation before the revenue officials for issuance of patta and on receipt of the same, the revenue officials shall consider the same and pass orders to issue patta without insisting No Objection Certificate from the respondents 2 and 3 herein. It is made clear that if the second and third respondents have obtained any interim order from this Court, those registration and issuance of patta are subject to the result of the writ appeal.

8. With the above direction, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Department,
Fort St. George, Chennai - 600 009.

2. The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 002.

3. The Executive Engineer,
Vellore, Housing Board Section,
Tamil Nadu Housing Board,
Sathuvachari, Vellore.

+1cc to Mr.S.Vanchinathan, Advocate SR.No.60942

+1cc to Mr.K.Desingh, Advocate SR.No.60791

+1cc to the Government Pleader SR.No.61517

W.P.No.25128 of 2021
and
W.M.P.No.26491 of 2021

BS (CO)
RVM(10/12/2021)