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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.25451 OF 2019

AND

W.M.P.NO.24978 OF 2019

1.K.V.Nagarajan

2.K.R.Subramani

...Petitioners

-Vs-

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai 600 035.

2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Scheme,
Bagalur Road, Hosur 635 109,
Krishnagiri District.

3.The Special Tahsildar (L.A).,
Hosur Housing Scheme,
Bagalur Road, Hosur,
Krishnagiri District.

4.The Tahsildar,
Hosur Taluk Office,
Hosur, Krishnagiri District.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the fourth respondent herein to transfer the patta in the name of the petitioners without insisting upon "No Objection Certificate" from TNHB in respect of land to an extent of 2.89 acres comprised in Survey No.372/1 and 2.21 acres comprised in Survey No.379, totally measuring an extent of 5.10 acres situate at Moornapalli Village, Hosur Taluk, Krishnagiri District, based on the petitioner's representation dated 22.07.2019, within the time to be stipulated by this Hon'ble Court.



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For Petitioners	:	Mr.K.Govi Ganesan
For R1 and R2	:	Dr.R.Gouri Standing Counsel
For R3 and R4	:	Mr.M.Muthusamy Government Advocate

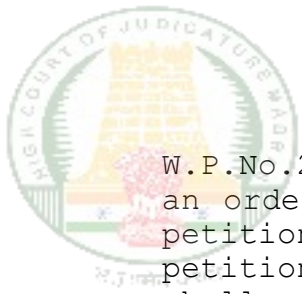
ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the fourth respondent herein to transfer the patta in the name of the petitioners without insisting upon "No Objection Certificate" from TNHB in respect of land to an extent of 2.89 acres comprised in Survey No.372/1 and 2.21 acres comprised in Survey No.379, totally measuring an extent of 5.10 acres situate at Moornapalli Village, Hosur Taluk, Krishnagiri District, based on the petitioner's representation dated 22.07.2019, within the time to be stipulated by this Hon'ble Court.

2. Heard Mr.K.Govi Ganesan, learned counsel appearing for the petitioners, Dr.R.Gouri, learned Standing Counsel appearing for the respondents 1 and 2 and Mr.M.Muthusamy, learned Government Advocate appearing for the respondents 3 and 4.

3. The land comprised in Survey No.372/1, ad-measuring 2.89 acres and the land comprised in Survey No.379, ad-measuring 2.21 acres, in total 5.10 acres situated at Moornapalli Village, Hosur Taluk, Krishnagiri District, owned by the petitioners. While being so, the respondents initiated proceedings to acquire the same for the purpose of forming a housing scheme. Thereafter, the Section 6 declaration of the Land Acquisition Act, 1894 was also issued. Though, the petitioners raised objections, those objections were not considered and the award was passed. Therefore, the petitioners challenged the 4(1) notification and the Section 6 declaration of the Land Acquisition Act, 1894 before this Court in W.P.No.4854 of 1994. The writ petition was dismissed by this Court by an order dated 10.07.2001 on the ground that the entire land acquisition proceedings had attained finality. Though, the land acquisition proceedings were completed, the possession of the subject property has not been taken over and handed over to the requisition body i.e. the Tamil Nadu Housing Board. Even after the award, no compensation amount has been paid to the petitioners.

4. Thereafter, the petitioners made request for re-conveyance of the subject land and it was not considered. Hence, the petitioners again approached this Court in



W.P.No.21771 of 2012. This Court, directed the respondents by an order dated 04.02.2013 to consider the representation of the petitioner. While pending the consideration, again the petitioners approached this Court in W.P.No.10971 of 2013, challenging the entire acquisition proceedings on the ground as contemplated under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act. It was allowed by an order dated 14.11.2016 and held that the entire land acquisition proceedings deem to have lapsed. By virtue of the order passed by this Court, the petitioners made a representation to the Revenue Tahsildar for transfer of Patta in respect of the subject property in favour of the petitioners. However, the Revenue Tahsildar insisted the petitioners to obtain No Objection Certificate from the requisition body i.e. the second respondent herein.

5. The first respondent filed counter and revealed that on the third round of writ petition, the entire land acquisition proceedings has been quashed by this Court as lapsed as contemplated under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Government has approved 4(1) notification of the Land Acquisition Act, 1894 vide G.O.Ms.No.752, dated 30.04.1991 to an extent of 16.21.0 hectares including the subject land comprised in S.F.No.372/1 and 379 to an extent of 2.06.5 hectares. It was published in the Government Gazette on 05.01.1991. As per Section 55(1) Rule 3 of the Land Acquisition Act, 1894, notices were served to the land owners and Section 5A enquiry was conducted on 16.12.1991. The petitioners raised objections and the same were rejected and thereafter approved the declaration under Section 6 of the Land Acquisition Act, 1894 by the Government in G.O.Ms.No.684, dated 01.10.1992. Thereafter, the award was passed in Award No.03 of 1994 and the entire award amount has been deposited in respect of the subject property.

6. Therefore, the writ petition filed by the petitioners in W.P.No.4854 of 1994 was dismissed by this Court. After the New Act came into force, the petitioners again filed a writ petition in W.P.No.10971 of 2013 and the entire acquisition proceedings deem to have lapsed as contemplated under Section 24 (2) Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Though, the first respondent filed a Writ Appeal in W.A.(SR).No.66178 of 2017 and it is not numbered yet.

7. Dr.R.Gouri, the learned Standing Counsel for the first respondent submitted that the subject land is merged with the housing board area and the lands have been subdivided. The



subject property is unidentifiable as per the approved layout, part of the development works were already completed in the subject land. In fact, most of the plots were allotted to the general public and they have constructed their respective houses and enjoying the same. At that juncture, the transfer of Patta is not possible and however as against the order passed by this Court, now appeal has been filed and it is yet to be numbered.

8. Admittedly, the first respondent filed Writ Appeal in W.A.(SR).No.66178 of 2017 as against the order passed by the Learned Single Judge of this Court in W.P.No.10971 of 2012, dated 14.11.2016. However, the order passed by this Court, holds good and no order has been passed in the appeal so far. Admittedly, the entire land acquisition proceedings have been quashed by this Court. No other acquisition proceedings is pending with regard to the subject property.

9. In view of the above, there cannot be any impediment for the fourth respondent to consider the request of the petitioners for grant of Patta and mutation of revenue records in favour of the petitioners in respect of the subject properties.

10. Accordingly, the fourth respondent is directed to mutate the Revenue records in favour of the petitioners, without insisting No Objection Certificate from the first respondent in respect of the property comprised in Survey No.372/1, ad-measuring 2.89 acres and the land comprised in Survey No.379, ad-measuring 2.21 acres, in total 5.10 acres situated at Moornapalli Village, Hosur Taluk, Krishnagiri District and issue Patta in favour of them, within a period of six weeks from the date of receipt of a copy of this order.

11. It is needless to say that the mutation of revenue records and issuance of Patta in favour of the petitioners in respect of the property comprised in Survey No.372/1, ad-measuring 2.89 acres and the land comprised in Survey No.379, ad-measuring 2.21 acres, in total 5.10 acres situated at Moornapalli Village, Hosur Taluk, Krishnagiri District, is subject to the order of the writ appeal if any.

12. With the above directions, this writ petition is allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai 600 035.

2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
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Bagalur Road, Hosur 635 109,
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3.The Special Tahsildar (L.A).,
Hosur Housing Scheme,
Bagalur Road,
Hosur, Krishnagiri District.

4.The Tahsildar,
Hosur Taluk Office,
Hosur, Krishnagiri District.

+1cc to Mr.K.Govi Ganesan, Advocate Sr.No.67185

+1cc to the Government Pleader Sr.No.67966

W.P.No.25451 of 2019

NR(CO)
RVM(29/12/2021)