

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.2831 of 2017

and W.M.No.2763 of 2017

1. T.Palanichamy

2. K.Veluchamy

... Petitioners

Vs.

Tamil Nadu Housing Board,
Rep by its Managing Director,
800, Anna Salai,
Nandanam,
Chennai 600 035

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondent to issue no-objection certificate to the petitioners pursuant to the application dated 19.07.2016 in respect of the property measuring about 36.5 cents comprised in S.F.No.944/1A, Kalapatti Village, Coimbatore Taluk.

For Petitioner : Mr.S.S.Swaminathan

For Respondent : Mr.R.Bharathkumar

ORDER

This Writ Petition has been filed for a mandamus seeking for a direction to the respondent to issue 'No Objection Certificate' to the petitioner pursuant to their application dated 19.07.2016 in respect of the property measuring about 36.5 cents comprised in S.F.Nos.944/1A, Kalapatti Village, Coimbatore Taluk.

2. According to the petitioners, the aforementioned property was earlier the subject matter of land acquisition proceedings. However, the same was quashed in W.P.Nos.1607 to 1610 of 2009. Aggrieved by the said order passed in the Writ Petitions, the respondent had preferred Writ Appeals in W.A.No.252 to 255 of 2011, which also came to be dismissed on merits on 16.08.2011. Thereafter, after the dismissal of the Writ Appeals, the petitioners have submitted an application dated 19.07.2016 with the respondent for issuance of 'No Objection Certificate'. The respondent has sent a reply dated 28.07.2016 directing the petitioners to pay the necessary fees

along with 3 sets of registered documents pertaining to the properties, for which, 'No Objection Certificate' is sought for. The petitioners have also sent a representation on 12.09.2016 seeking for issuance of 'No Objection Certificate' and they have also enclosed a Demand Draft and the 3 sets of necessary documents by RPAD. Since the respondent has not issued the 'No Objection Certificate', the petitioners have approached this Court under Article 226 of the Constitution of India.

3. Heard Mr.S.S.Swaminathan, learned counsel for the petitioners and Mr.R.Bharath Kumar, learned Standing Counsel appearing for the respondent/TNHB.

4. The petitioners have sought for a positive direction from this Court seeking for issuance of 'No Objection Certificate' by the respondent, which cannot be granted by this Court, as it is for the respondent to consider the same. The learned counsel for the petitioners has produced before this Court the reply dated 28.07.2016 issued by the respondent directing the petitioners to pay the necessary fees along with 3 sets of registered documents to enable them to get the 'No Objection Certificate' from the respondent. Admittedly, as seen from the representation dated 12.09.2016 sent by the petitioners, the necessary charges as well as the documents sought for by the respondent have also been given to the the respondent by the petitioners. Therefore, the respondent ought to have considered the fact that the petitioners have complied with their requirements as per the reply dated 28.07.2016 and issued 'No Objection Certificate' to the petitioners. Admittedly, such an exercise has not been done by the respondent. As seen from the averments contained in the affidavit filed in support of this Writ Petition, the Writ Petitions challenging the acquisition proceedings involving the petitioners' land also was quashed by this Court in W.P.Nos.1607 to 1610 of 2009, which was upheld by the Division Bench of this Court on 16.08.2011 in W.A.Nos.252 to 255 of 2011.

5. After giving due consideration to the aforementioned factors, this Court is the considered view that the petitioners are entitled for 'No Objection Certificate' from the respondent. However, as observed earlier, it is for the respondent to pass orders on the petitioners' representation, in the light of the aforementioned observations.

6. For the foregoing reasons, this Court directs the respondent to consider the petitioners' application dated 19.07.2016 seeking for 'No Objection Certificate' for their property measuring about 36.5 cents comprised in S.F.No.944/1A, Kalapatti Village, Coimbatore Taluk, in the light of the aforementioned observations made by this Court, within a period of 4 weeks from the date of receipt of a copy of this order.

7. With the aforesaid directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srn

To

The Managing Director,
Tamil Nadu Housing Board,
800, Anna Salai,
Nandanam,

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.1290.

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No.12692.

GPL(CO)
CSR 23.03.2021

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